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APPENDIX A

CODIFICATION OF SOLID WASTE MANAGEMENT AUTHORITY IN KENTUCKY

This report (SW-6tsg), an appendix to the
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16. Abstracts ~~This~~ A codified outline of the Kentucky laws and regulations relating to solid waste management includes all relevant ~~Kentucky (1)~~ statutes enacted before the 1970 legislative session, and ~~(2)~~ regulations in force as of February 1970. ~~(and distributed~~ to the subscribers of Kentucky Administrative Regulations (K.A.R.) by February ~~1970)~~. The enforcement authority to perform operations or to regulate operations related to solid waste management is presented in three sections: Sec. I--the enforcement authority given by the Kentucky General Assembly to state agencies and public bodies in the Commonwealth; Sec. II--the authority given to various local governments and other bodies by the Kentucky General Assembly to permit them to develop and carry out services related to solid waste collection and disposal; Sec. III--the Kentucky Administrative Regulations adopted by the various state agencies and public bodies in accordance with their permitted enforcement authority. This report is an appendix to the *Kentucky Solid Waste Management Plan; Status Report, 1970*, available from the Publications Distribution Unit, Office of Solid Waste Management Programs, U.S. Environmental Protection Agency, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

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(EPA abstract)

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GENERAL INTRODUCTION

The improvement of solid waste management practices in Kentucky is dependent upon the enforcement authority provided to regulatory agencies and the authority given to both public and private bodies to provide services related to solid waste collection and disposal.

Appendix A presents a codified outline of the Kentucky laws and regulations relating to solid waste management. The authority to perform operations or to regulate operations related to solid waste management is presented in three sections.

Section I--presents the enforcement authority given by the Kentucky General Assembly to state agencies and public bodies in the Commonwealth.

Section II--presents the authority given to various local governments and other bodies by the Kentucky General Assembly to permit them to develop and carry out services related to solid waste collection and disposal.

Section III--presents the Kentucky Administrative Regulations adopted by the various state agencies and public bodies in accordance with their permitted enforcement authority.

All relevant Kentucky statutes included here were enacted prior to the 1970 legislative session. All relevant Kentucky regulations in force as of February 1970 are also included, provided the regulations were distributed to the subscribers of Kentucky Administrative Regulations (K.A.R.) by February 1970.

For the most part, the statutes or regulations are not quoted ver batim, but are paraphrased. The reader who is interested in the exact wording is directed to the appropriate edition of Kentucky Acts, or section of Kentucky Revised Statutes (K.R.S.), or K.A.R.

The format used in this codification permits a systematic review of Commonwealth laws relating to solid waste management. An independent decimal numbering system is used in each section with authority topics numbered consecutively throughout that section. Cross reference index numbers refer to this codification system and not to K.R.S. or K.A.R. numbers.

In Sections I and II, appropriate Kentucky Acts (the session law) as well as sections of K.R.S. are indicated in order to present the year the statute was enacted. K.R.S. references not preceded by a Kentucky Acts reference indicate that the statute was enacted prior to 1942. It should be noted that for all statutes enacted since 1942, the Commonwealth law is in the Kentucky Acts and not K.R.S. In any case, where wording differs between the two, the Kentucky Acts prevail. 1942 Ky. Acts c.208 enacted K.R.S. as session law; therefore, K.R.S. sections dating from that period or before are the law.

Often laws cited in Sections I and II have similar meanings. Duplication occurs when legislators fail to research K.R.S. before introducing and enacting new legislation. Thus, new legislation is enacted authorizing new programs without repeal or amendment of old authority. For city powers and responsibilities, each class city usually receives its powers as a separate act of the General Assembly; thus, the language used for each class city's authority for a function common to all cities can be either repetitive or inconsistent.

Similar circumstances are apparent in the K.A.R. covered in Section III. In this case, state agencies fail to research K.R.S. to ascertain completely the pursuant authority to which a regulation is enacted or to determine all the statutes to which a regulation is relevant.

SECTION I
ENFORCEMENT AUTHORITY FOR SOLID WASTE MANAGEMENT

INTRODUCTION

DIRECTIONS FOR USE

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2. Littering by Highways
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4. Food Establishments
5. Solid Waste and Septic Tanks
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14. Local Enforcement Generally
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16. City-County Health Board in Counties Containing a First Class City
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18. City Powers Regarding Solid Waste Disposal Practices
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20. Escaping Contents
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22. Department of Health (DH)
23. Department of Agriculture (DAGR)
24. Department of Public Safety (DPS)
25. Local Enforcement Generally
26. Local Health Units (County, City, and District)
27. City-County Health Board in Counties Containing a First Class City
28. City-County Health Board in Counties Containing a Second Class City
29. City Powers Regarding Solid Waste Collection Practices
30. City Police Power

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34. Air Pollution

GENERAL ENFORCEMENT AUTHORITY

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37. Department of Fish and Wildlife Resources (DF&W)
38. Department of Natural Resources (DNR)
39. Department of Public Safety (DPS)
40. Area Planning Commissions
41. Air Pollution Control Districts
42. Local Enforcement Generally
43. Local Health Units (County, City, and District)
44. City-County Health Board in Counties Containing a First Class City
45. City-County Health Board in Counties Containing a Second Class City
46. City Power Regarding Solid Waste Disposal Practices (Final Disposition)
47. City Police Power

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48. Radioactive Solid Waste

I. ENFORCEMENT AUTHORITY FOR SOLID WASTE MANAGEMENT

INTRODUCTION

Solid waste management can be separated into three phases:

- Private and Personal Disposal--covered herein are disposal practices by the initial producers of solid wastes, that is, the domestic, food processing, commercial, industrial, and agricultural producers
- Collection--covered herein are collection and transfer, plus storage by a collection agency, of solid wastes
- Public Disposal--covered herein are sanitary landfills, dumping, and the volume reduction process of incineration.

Certain types of solid waste, because of their special characteristics, are treated separately even though the above functional phases apply to them:

- Special Waste--covered herein are wastes which are inherently unique, such as radioactive solids.

Solid waste disposal practices are interrelated with air and water pollution, and meat and restaurant inspection. Correspondingly, the enforcement authority relating to these practices is found throughout K.R.S. as well as in the Solid Waste Disposal Act of 1968.

Statewide enforcement authority is found in the following Departments:

- Health
- Agriculture
- Fish and Wildlife Resources
- Highways
- Natural Resources
- Public Safety

Enforcement officials can range from city police and county sheriffs to the State Police and a commissioner of one of the above-named Departments.

To clarify the practices involved and the exact nature of the enforcement authority, each of the functional categories, except the special waste category, is divided into the specific acts prohibited or compelled by statute, and the source of enforcement power which allows enforcing these specific acts or enacting regulations regarding disposal practices and standards.

DIRECTIONS FOR USE

CODIFICATION FORMAT

Ⓐ 1.1a Ⓑ Injurious substances are not to be placed in public waters. Ⓒ 1968 Ky. Acts c.38, §24; Ⓓ K.R.S. 150.460 [DF&W]
Ⓔ (See also, paragraphs 1.1b-1.7, 9.1a-d, 12.2, 14.1a-b, 14.2, 14.3, 14.5c, and 19.)

FORMAT EXPLANATION

Ⓐ Paragraph number assigned to this statute for this codification

Ⓑ Application of the statute

Ⓒ Date enacted*

Ⓓ Statute number

Ⓔ Other statutes and regulations in this codification to which this statute relates. Cross references permit easy location.

[ ] Enclose the initials of the department of state government having the primary responsibility for enforcing this statute. and appear only under "Specific Acts Prohibited or Compelled by Statute."

*When two or more references to Ky. Acts appear before the K.R.S. number, it indicates that the General Assembly has amended the statute several times.

PRIVATE OR PERSONAL DISPOSAL

Covered herein are private and personal disposal practices by the initial producers of solid wastes, that is, the domestic, food processing, commercial, industrial, and agricultural producers. This category includes such practices as burial, dumping, and volume reduction by incineration.

SPECIFIC ACTS PROHIBITED OR COMPELLED BY STATUTE

1. Water Pollution

1.1a Injurious substances are not to be placed in public waters. 1968 Ky. Acts c.38, §24; K.R.S. 150.460. [DF&W] (See also, paragraphs 1.1b-1.7, 9.1a-d, 12.2, 14.1a-b, 14.2, 14.3, 14.5c, 19.)

1.1b Penalty--a fine of not less than $100 nor more than $500, or imprisonment for not more than six months, or both, in addition to costs to the Department of Fish and Wildlife Resources for restocking fish or replenishing such other wildlife which has been killed or destroyed. 1968 Ky. Acts c.38, §28; K.R.S. 150.990. (See also, paragraph 1.1a.)

1.2a Deposits which restrict or disturb the flow of water in the channel or in the floodway of a stream are prohibited without a permit issued by the Division of Water, Department of Natural Resources. 1966 Ky. Acts c.23, §35; K.R.S. 151.310 [DNR] (See also, paragraphs 1.1a-b, 1.2b-1.7, 11.2a-b, 12.2, 14.1a-b, 14.2, 14.3, 14.6, 19.)

1.2b Penalty--a fine of not more than $1,000 for each violation. Each day upon which such violation occurs or continues is a separate offense. 1966 Ky. Acts c.23, §38; K.R.S. 151.990. (See also, paragraph 1.2a.)

1.3a Navigable streams are not to be obstructed. K.R.S. 182.010. [DNR] (See also, paragraphs 1.1a-1.2b, 1.3b-1.7, 11.2a-b, 12.2, 14.1a-b, 14.2, 14.3, 14.6, 19.)

1.3b Penalty--a fine of not less than $50 nor more than $500 for each offense. K.R.S. 182.990. (See also, paragraph 1.3a.)

1.4a Water pollution by any type of waste is prohibited. 1950 Ky. Acts c.69, §7; K.R.S. 224.060. [DH] (See also, paragraphs 1.1a-1.3b, 1.4b-1.7, 7.1a-7.2b, 7.8, 12.2, 14.1a-d, 14.2, 14.3, 15, 18-19.)

1.4b Penalty--a fine not to exceed $1,000 for such a violation. Additional fine of $1,000 for each day offense continues. Violations may be enjoined. 1950 Ky. Acts c.69, §9;

K.R.S. 224.990. (See also, paragraph 1.4a.)

1.5a Obstruction of a waterway used as a drain for a drainage area or reclamation project is prohibited. K.R.S. 267.470. (See also, paragraphs 1.1a-1.4b, 1.5b, 1.6, 1.7, 11.2a-b, 12.2, 14.1a-b, 14.2, 14.3, 14.9, 19.)

1.5b Penalty--a fine of not less than $10 nor more than $100 for not removing obstruction within 30 days after notice by the Superintendent of Drainage of a drainage district. K.R.S. 267.990. (See also, paragraph 1.5a.)

1.6 Littering or dumping in public waters is a crime against property, punishable by a fine of not less than $25 nor not more than $300 for each offense. 1966 Ky. Acts c.23, §78; K.R.S. 433.757. [DPS] (See also, paragraphs 1.1a-1.5b, 1.7, 5.1a, 7.4a-b, 11.2b, 12, 14.1a-b, 14.2, 14.3, 19.)

1.7 Contaminating a watercourse is a crime against public health and safety. Penalty for making water unfit for use or for producing a stench is a fine of not less than $100 and imprisonment for not less than 30 days nor more than six months. Penalty for contaminating with an animal carcass is a fine of not less than $5 nor more than $20 for the first offense, and not less than $20 nor more than $100 for each subsequent offense. K.R.S. 438.060. [DPS] (See also, paragraphs 1.1a-1.6, 5.1a, 7.8, 12, 14.1a-b, 14.2, 14.3, 19.)

2. Littering by Highways

2.1 Ditches along county roads are not to be filled or otherwise obstructed by the abutting owner or tenant. K.R.S. 179.380. [DPS] (See also, paragraphs 2.2a-2.4, 10.1, 12, 14.1a-c, 14.2, 14.3, 19.)

2.2a Escaping contents from a vehicle being operated on a highway is prohibited. K.R.S. 189.150. [DPS] (See also, paragraphs 2.1, 2.2b-2.4, 10.1, 12, 14.1a-c, 14.2, 14.3, 19.)

2.2b Abandonment of a motor vehicle on a public road is prohibited. Penalty for this is a fine or not less than $25 nor more than $100, or imprisonment for not less than 10 days nor more than 30 days, or both. 1966 Ky. Acts c.105, §3; K.R.S. 189.751 [DPS] (See also, paragraphs 2.1-2.2a, 2.2c-2.4, 10.1, 12, 14.1a-c, 14.2, 14.3, 19.)

2.2c Penalty for violating 2.2a--a fine of not less than $10 nor more than $100 for each offense. 1956 Ky. Acts c.23; 1950 Ky. Acts c.96, §2, & c.97, §2; 1946 Ky. Acts c.96; K.R.S. 189.990. (See also, paragraph 2.2a.)

2.3 Injuring public property or right of way without first having obtained permission from the engineer in charge of the project, if a highway, or from superintendent or custodian of the park, refuge, or sanctuary, is a crime against property and is punishable by a fine of not less than $25 nor more than $300. K.R.S. 433.750. [DPS] (See also, paragraphs 2.1-2.c, 2.4, 3.1d, 10.1, 11.1b, 12, 14.1a-c, 14.2, 14.3, 19.)

2.4 Littering or dumping on a public highway or a truck dropping its contents on a public highway are crimes against property and are punishable by a fine of not less than $25 nor more than $300. 1966 Ky. Acts c.23, §77; K.R.S. 433.753. [DPS] (See also, paragraphs 2.1-2.3, 10.1, 12, 14.1a-c, 14.2, 14.3, 19.)

3. Fire Hazards and Dumping

3.1a Acts which create fire hazards in forests are prohibited. 1966 Ky. Acts c.23, §43; 1964 Ky. Acts c.158, §3; K.R.S. 149 370. [DNR] (See also, paragraphs 3.1b-3.3, 11.1a-e, 12.2, 14.1a-b, 14.2, 14.3, 19.)

1.1b Setting fire to flammable materials on one's land which is within or near a forest is prohibited unless proper precautions are taken. 1966 Ky. Acts c.23, §44; 1964 Ky. Acts c.158, §4; K.R.S. 149.375. [DNR] (See also, paragraphs 3.1a, 3.1c-3.3, 11.1a-e, 12.2, 14.1a-b, 14.2, 14.3, 19.)

3.1c Setting fire to flammable materials on another's land which is within or near a forest is prohibited unless proper precautions are taken. 1966 Ky. Acts c.23, §45; 1964 Ky. Acts c.158, §5; K.R.S. 149.385. [DNR] (See also, paragraphs 3.1a-b, 3.1d-3.3, 11.1a-e, 12.2, 14.1a-b, 14.2, 14.3, 19.)

3.1d Operation of a dump within 150 feet of a forest is prohibited unless proper precautions are taken. Division of Forestry, Department of Natural Resources shall set standards to enforce this. 1964 Ky. Acts c.158, §8; K.R.S. 149.395. [DNR] (See also, paragraphs 2.3, 3.1a-c, 3.1e-3.3, 11.1a-e, 12.2, 14.1a-b, 14.2, 14.3, 19.)

3.1e Penalty for 3.1a--a fine of not less than $10 nor more than $50, or imprisonment for not less than 10 days nor more than six months, or both. Penalty for 3.1b--a fine of not less than $10, nor more than $100, or imprisonment for not less than six months, or both. Penalty for 3.1c-d--a fine of not more than $200, or imprisonment for not more than three months, or both. 1964 Ky. Acts c.158, §18;

K.R.S. 149.991. (See also, paragraphs 3.1a-d.)

3.2 Unlawful firing of flammable objects capable of spreading is a crime against property and is punishable by a fine of not less than $10 nor more than $200, or imprisonment for not less than ten days nor more than three months, or both. 1964 Ky. Acts c.158, §20; K.R.S. 433.070. [DPS] (See also, paragraphs 3.1a-e, 3.3, 12, 14.1a-b, 14.2, 14.3, 19.)

3.3 Abandoning refrigerators, iceboxes, and ice chests is prohibited and is punishable by a fine of not more than $50, or imprisonment for not more than 30 days, or both. 1954 Ky. Acts c.44; K.R.S. 438.150. [DPS] (See also, paragraphs 3.1a-e, 3.2, 12, 14.1a-b, 14.2, 14.3,19.)

4. Food Establishments

4.1a Food establishments are to be sanitary. K.R.S. 217.280. [DH] (See also, paragraphs 4.1b-d, 7.1a-7.3, 7.6a-e, 12.2, 14.1a-c, 14.2, 14.3, 15, 18, 19.)

4.1b Vehicles used in transporting food are to be covered. K.R.S. 217.290. [DH] (See also, paragraphs 2.2a, 4.1a, 4.1c-d, 7.1a-7.3, 7.6a-e, 12.2, 14.1a-14.3, 15, 18, 19.)

4.1c If food establishments are not sanitary (4.1a) and equipment in which food is conveyed is not covered (4.1b), then a nuisance exists and can be abated. K.R.S. 217.330. [DH] (See also, paragraphs 4.1a-b, 4.1d, 7.1a-7.3, 7.6a-e, 12.2, 14.1a-14.3, 15, 18, 19.)

4.1d Penalty--a fine of not less than $10, nor more than $100, or imprisonment for not more than 30 days, or both, for the first offense. For each subsequent offense, a fine of not less than $50 nor more than $200, or imprisonment for 90 days, or both. Each day the nuisance continues shall be a separate offense. 1968 Ky. Acts c.54; K.R.S. 217.990. (See also, paragraphs 4.1a-c.)

5. Solid Waste and Septic Tanks

5.1a Solid waste is to be disposed of only at Department of Health permitted sites. 1968 Ky. Acts c.192, §7; K.R.S. 211.707. [DH] (See also, paragraph 1.6, 1.7, 2.3, 3.1d, 5.1b-c, 7.1a-7.4f, 12.2, 14.1a-b, 14.2, 14.3, 15, 18, 19.)

5.1b Disposal of solid waste by an individual from his own household is permitted as long as no nuisance or hazard to health is created. 1968 Ky. Acts c.192, §9; K.R.S. 211.710. [DH] (See also paragraphs 5.1a, 5.1c, 7.1a-7.4f, 12.2, 14.1a-b, 14.2, 14.3, 15, 18, 19.)

5.1c Penalty--a fine of not less than $100 nor more than $500, or imprisonment for not more than 30 days, or both. 1968 Ky. Acts c.192, §11; K.R.S. 211.992. (See also, paragraphs 5.1a-b.)

5.2a Trailer parks' permit holders shall provide solid waste disposal. The method of this service must be approved by the Department of Health. 1954 Ky. Acts c.207, §7; K.R.S. 219.180. [DH] (See also, paragraphs 5.2b, 7.1a-7.3, 12.2, 14.1a-b, 14.2, 14.3, 15, 18, 19.)

5.2b Penalty--a fine of not less than $10 nor more than $100. Each day violation continues constitutes a separate offense. 1954 Ky. Acts c.207, §16; K.R.S. 219.990. (See also, paragraph 5.2a.)

5.3a The burial of septic tank waste cannot create a nuisance or a health hazard. 1968 Ky. Acts c.82, §5; K.R.S. 224.223. [DH] (See also, paragraphs 5.3b-c, 7.1a-7.3, 12.2, 14.1a-b, 14.2, 14.3, 15, 18, 19.)

5.3b Property owners can clean own septic tank or cess pool provided no nuisance or hazard to health is created. 1968 Ky. Acts c.82, §6; K.R.S. 224.225. [DH] (See also, paragraphs 5.3a, 5.3c, 7.1a-7.3, 12.2, 14.1a-b, 14.2, 14.3, 15, 18, 19.)

5.3c Penalty--a fine of not less than $25 nor more than $100. Each day violation continues shall be a separate offense. 1968 Ky. Acts c.82, §8; K.R.S. 224.992. (See also, paragraphs 5.3a-b.)

6. Air Pollution

6.1a Emission of air contaminats is prohibited. Emission standards must conform with shade #2 of the Ringelmann Chart. 1954 Ky. Acts c.173, §1; 1952 Ky. Acts c.53, §36; K.R.S. 77.155. (See also, paragraphs 6.1b-6.2b, 7.9a-g, 12.2, 13.1a-l, 14.1a-b, 14.2, 14.3, 15, 18, 19.)

6.1b Penalty--a fine of not more than $500 nor less than $10 for each offense. Each day violation continues shall be a separate offense. 1954 Ky. Acts c.173, §3; K.R.S. 77.990. (See also, paragraph 6.1a.)

6.2a Air pollution emitted in violation of Air Pollution Control Commission standards is prohibited. 1966 Ky. Acts c.22, §5· K.R.S. 224.330. [DH] (See also, paragraphs 6.1a-b, 14.2, 14.3, 15, 18, 19.)

6.2b Penalty--a fine of not less than $100 nor more than $1,000, or imprisonment for not more than one year, or both. Each day violation continues shall be a separate offense. 1966 Ky. Acts c.22, §17; K.R.S. 224.991. (See also, paragraph 6.2a.)

GENERAL ENFORCEMENT AUTHORITY

7. Department of Health

7.1a The State Board of Health adopts all rules and regulations necessary to regulate and control all matters set forth in K.R.S. 211.180. 1954 Ky. Acts c.157, §7; K.R.S. 211.090. (See also, paragraph 7.1b.)

7.1b Matters of concern to the Department include: detention, prevention, and control of communicable diseases; health hazards peculiar to industry; home health hazards; animal diseases transmissible to man; such other diseases and health hazards that may be controlled; control of insects, rodents, and other vectors of disease; proper disposal of garbage, waste, and other refuse; safe handling of food and food products; sanitation of schools, industrial establishments and other public and semipublic buildings; review and approval or disapproval of plans for construction, modification, or extension of food-handling establishments and such other establishments, systems, plants, and places as are designated by the Board; licensure of hospitals; and the control of such other factors as may be necessary to insure a safe and sanitary environment. 1954 Ky. Acts c.157, §12; K.R.S. 211.180. (See also, paragraphs 1.4a-b, 4, 5, 6.2a-b, 7.1a, 7.4d, 7.5b, 7.7c, 7.8, 7.9f, III 1.)

7.2a The Department shall abate all nuisances detrimental to health. 1954 Ky. Acts c.157, §15; K.R.S. 211.210. (See also, paragraphs 1.4a-b, 4, 5, 6.2a-b, 7.2b-7.3, 7.4e, 7.6e, 7.9d, 12.2, 15, 18, 19.)

7.2b Penalty--a fine of not less than $10 nor more than $100. Each day nuisance continues after notification to eliminate it shall constitute a separate offense. 1960 Ky. Acts c.47, §7; K.R.S. 211.990. (See also, paragraph 7.2a.)

7.3 Attorney General and Commonwealth Attorneys within their respective jurisdictions are to prosecute all violations of the penal provisions of Kentucky public health laws. 1954 Ky. Acts c.157, §18; K.R.S. 211.240. (See also, paragraphs 1.4a-b, 5, 6.2a-b, 7.4a-7.9g, 12.2, 15.1.)

7.4a A permit is required from the Department for the construction or operation of a solid waste disposal site or facility.

1968 Ky. Acts c.192, §5; K.R.S. 211.713. (See also, paragraphs 5.1a-c, 7.4b-f.)

7.4b A permit is required from the Department for the continuation of an existing solid waste disposal site or facility. 1968 Ky. Acts c.192, §6; K.R.S. 211.717. (See also, paragraphs 5.1a-c, 7.4a, 7.4c-f.)

7.4c The Department shall supervise the operation, maintenance, and establishment of solid waste sites and facilities. 1968 Ky. Acts c.192, §3; K.R.S. 211.720. (See also, paragraphs 5.1a-c, 7.4a-b, 7.4d-f.)

7.4d The Department shall enact whatever rules and regulations are necessary for control of solid waste disposal. 1968 Ky. Acts c.192, §8; K.R.S. 211.727. (See also, paragraphs 5.1a-c, 7.1a-b, 7.4a-c, 7.4e-f, III 1.1a-d.)

7.4e Violations of the solid waste laws and regulations may be enjoined by the Department. 1968 Ky. Acts c.192, §10; K.R.S. 211.730. (See also, paragraphs 5.1a-c, 7.2a, 7.4a-d, 7.4f.)

7.4f Penalty--a fine of not less than $100 nor more than $500, or imprisonment for not more than 30 days, or both, for violating solid waste laws and regulations. 1968 Ky. Acts c.192, §11; K.R.S. 211.992. (See also, paragraphs 7.4a-e.)

7.5a The Department sets minimum standards for construction, alterations, and operations of hospitals. 1952 Ky. Acts c.16, §6; K.R.S. 216.450. (See also, paragraph 7.5b.)

7.5b The Board may adopt necessary regulations for administration and enforcement of K.R.S 216.400 to 216.500 and 216.990 (hospital statutes). These must be approved by the Hospital Council. 1952 Ky. Acts c.16, §8; K.R.S. 216.470. (See also, paragraphs 7.1a-7.2a, 7.5a, III 1.2.)

7.6a The Board plus local health officers enforce food establishment laws and abate unlawful conditions. K.R.S. 217.380. (See also, paragraphs 4.1a-d, 7.6b-e.)

7.6b Penalty--a fine of not less than $10 nor more than $100, or imprisonment for 30 days, or both, for the first offense. A fine of not less than $50 nor more than $200, or imprisonment for not more than 90 days, or both, for each subsequent offense. Each day's continuance after abatement is ordered constitutes a separate offense. 1968 Ky. Acts c.54; K.R.S. 217.990. (See also, paragraphs 4.1a-d, 7.6a, 7.6c-e.

7.6c The Board through the Division of Hotel Inspection enforces chapter 219 of K.R.S. The Division keeps records of restaurants and their sanitary condition, and enforces regulations regarding restaurants promulgated by the Board. K.R.S. 219.020. (See also, paragraphs 4.1a-d, 7.6a-b, 7.6d-e.)

7.6d A certificate is required from the Board for operation of a restaurant. The Board determines the standards for issuance of the certificate. K.R.S. 219.030. (See also, paragraphs 4.1a-d, 7.6a-c, 7.6e.)

7.6e The Board shall inspect restaurants, enforce health laws, and abate unlawful conditions. K.R.S. 219.030. (See also, paragraphs 4.1a-d, 7.2a, 7.6a-d.)

7.7a Permits must be obtained from the Department for trailer parks. The Department sets standards for issuance. 1954 Ky. Acts c.207, §2; K.R.S. 219.130. (See also, paragraphs 5.2a-b, 7.7b-d.)

7.7b Solid waste disposal procedures at trailer parks must be approved by the Department. 1954 Ky. Acts c.207, §7; K.R.S. 219.180. (See also, paragraphs 5.2a-b, 7.7a, 7.7c-d.)

7.7c The Board may promulgate necessary regulations to administer and enforce K.R.S. 219.120 to 219.250, and establish standards for trailer parks. 1954 Ky. Acts c.207, §9; K.R.S. 219.200. (See also, paragraphs 5.2a-b, 7.1a-b, 7.7a-b, 7.7d, III 1.4.)

7.7d Penalty--a fine of not less than $10 nor more than $100. Each day violation continues constitutes a separate offense. 1954 Ky. Acts c.207, §16; K.R.S. 219.990. (See also, paragraphs 7.7a-c.)

7.8 The Water Pollution Control Commission shall enforce K.R.S. 224.010 to 224.060, 224.080, and 224.100 and all rules, regulations, and orders promulgated thereunder. The Commission adopts rules for water pollution and investigates premises of water polluters. The Commission also can require permits for water pollution operations, and regulate deposits of industrial wastes into any waters. 1950 Ky. Acts c.69, §5; K.R.S. 224.040. (See also, paragraphs 1.4a-b, 1.7, 7.1a-b, III 1.5.)

7.9a Persons whose business contributes to air pollution must register with the Air Pollution Control Commission of the Department. 1966 Ky. Acts c.22, §7; K.R.S. 224.350. (See also, paragraphs 6.1a-6.2b, 7.9b-g, 13.)

7.9b The Commission shall set standards for and regulate the operation of equipment which contributes to air pollution. 1966 Ky. Acts c.22, §8; K.R.S. 224.360. (See also, paragraphs 6.1a-b, 6.2a-b, 7.9a, 7.9c-g, 13.)

7.9c The Commission may inspect the premises of actual or suspected air polluters. Interference is unlawful.

1966 Ky. Acts c.22, §9; K.R.S. 224.370. (See also, paragraphs 6.1a-6.2b, 7.9a-b, 7.9d-g, 13.)

7.9d The Executive Secretary of the Commission may issue orders for emergency abatement of air pollution. 1966 Ky. Acts c.22, §12; K.R.S. 224.400. (See also, paragraphs 6.1a-6.2b, 7.2a, 7.9a-c, 7.9e-g, 12.2, 13.)

7.9e The Commission may grant exemptions from air pollution laws and regulations. 1966 Ky. Acts c.22, §13; K.R.S. 224.410. (See also, paragraphs 6.1a-6.2b, 7.9a-d, 7.9f-g, 13.)

7.9f The Commission shall enforce air pollution control laws and adopt and enforce such regulations as are necessary for air pollution control. 1966 Ky. Acts c.22, §4; K.R.S. 224.430. (See also, paragraphs 6.1a-6.2b, 7.1a-b, 7.9a-e, 7.9g, 13, III 1.7.)

7.9g Penalty for 7.9a-c and 7.9e-f--a fine of not less than $100 nor more than $1,000, imprisonment for not more than one year, or both. Each day violation continues shall be a separate offense. Penalty for 7.9d--a fine of not more than $1,000. A fine of $1,000 for each day violation continues. 1966 Ky. Acts c.22, §17; K.R.S. 224.991. (See also, paragraphs 7.9a-f.)

8. Department of Agriculture

8.1a The Department may enact such regulations as are necessary to enforce K.R.S. 217.800 to 217.893 (Meat Inspection Act). 1968 Ky. Acts c.205; K.R.S. 217.803. (See also, paragraphs 8.1b-f, 12.2, 14.1a-b, 14.2, 14.3, 19, III 2.2.)

8.1b Meat packing and slaughterhouse operations and premises shall be inspected for sanitation by the Department. The Department sets sanitary standards and promulgates rules and regulations to enforce these standards. 1968 Ky. Acts c.205, §8; K.R.S. 217.823. (See also, paragraphs 8.1a, 8.1c-f, 12.2, 14.1a-b, 14.2, 14.3, 19, III 2.2.)

8.1c When the owner of a meat packing operation slaughters his own animals for his own use, the operation is exempt from inspection by the Division of Meat Inspection, but shall be conducted in accordance with whatever sanitary conditions the Department prescribes by regulation. 1968 Ky. Acts c.205, §15; K.R.S. 217.847. (See also, paragraphs 8.1a-b, 8.1d-f.)

8.1d The Commissioner of the Department may promulgate regulations for the storage and handling of carcasses and meat products before delivery to consumers. 1968 Ky. Acts c.205, §16; K.R.S. 217.850. (See also, paragraphs 8.1a-c, 8.1e-f, III 2.2.)

8.1e Buying, selling, and transporting of dead, injured, or diseased animals must be undertaken in accordance with such regulations as the Department may prescribe. 1968 Ky. Acts c.205, §20; K.R.S. 217.863. (See also, paragraphs 8.1a-d, 8.1f, III 2.2.)

8.1f Penalty--a fine of not less than $1,000 nor more than $5,000, or imprisonment for not less than one nor more than three years, or both, for resisting inspection. 1968 Ky. Acts c.205, §29; K.R.S. 217.996. (See also, paragraphs 8.1a-e.)

9. Department of Fish and Wildlife Resources

9.1a The Department may adopt regulations governing restoration of the supply of wildlife damaged by the destruction of breeding conditions and fool supply. The Department may adopt the necessary regulations to implement chapter 150 of K.R.S. 1968 Ky. Acts c.38, §2; 1966 Ky. Acts c.239, §144; 1956 Ky. Acts c.208; 1952 Ky. Acts c.200, §7; 1948 Ky. Acts c.78, §4; K.R.S. 150.025. (See also, paragraphs 1.1a-b, 9.1b-d, III 3.)

9.1b Conservation and peace officers shall enforce chapter 150 of K.R.S. They may arrest without warrant, on site, violators of this chapter. 1968 Ky. Acts c.38, §3; 1956 Ky. Acts c.115, §7; 1952 Ky. Acts c.200, §14; 1942 Ky. Acts c.68, §9; K.R.S. 150.090. (See also, paragraphs 1.1a-b, 9.1a, 9.1c-d, 12.2, 14.1a-b, 14.2, 14.3, 19.)

9.1c Commissioner and Department personnel may execute process to enforce chapter 150 of K.R.S. 1952 Ky. Acts c.200, §16; 1942 Ky. Acts c.68; K.R.S. 150.100. (See also, paragraphs 1.1a-b, 9.1a-b, 9.1d, 14.5c.)

9.1d Commonwealth Attorneys shall enforce fish and wildlife laws and regulations. 1952 Ky. Acts c.200, §20; 1948 Ky. Acts c.78; 1942 Ky. Acts c.68; K.R.S. 150.130. (See also, paragraphs 1.1a-b, 9.1a-c, 14.5c.)

10. Department of Highways

10.1 Highway authorities of all levels can act together in providing and maintaining limited access facilities (highways). The Department and each level of authority may regulate the use of these limited access facilities. 1946 Ky. Acts c.225, §3; K.R.S. 177.230. (See also, paragraphs 2.1-2.4, 14.8.)

11. Department of Natural Resources

11.1a Commonwealth Attorneys shall prosecute violations of forestry laws, chapter 149 of K.R.S. K.R.S. 149.070. (See also, paragraphs 3.1a-e, 11.1b-e, 12.2, 14.1a-b, 14.2-14.5a, 19.)

11.1b The Division of Forestry sets standards relating to the operation of dumps within or adjacent to forests. 1964 Ky. Acts c.158, §8; K.R.S. 149.395. (See also, paragraphs 3.1a-e, 11.1a, 11.1c-e, 12.2, III 4.1.)

11.1c Commonwealth Attorneys are to prosecute abatement proceedings injuring forests. 1964 Ky. Acts c.158, §11; K.R.S. 149.410. (See also, paragraphs 3.1a-e, 11.1a-b, 11.1d-e, 14.5b.)

11.1d The Division of Forestry shall administer, investigate violations of, and enact necessary regulations to implement K.R.S. 149.360 to 149.430 (forestry law). 1964 Ky. Acts c.158, §12; K.R.S. 149.415. (See also, paragraphs 3.1a-e, 11.1a-c, 11.1e, III 4.1.)

11.1e The Division of Forestry shall inspect premises to enforce forestry regulations. 1964 Ky. Acts c.158, §13; K.R.S. 149.420. (See also, paragraphs 3.1a-e, 11.1a-d.)

11.2a The Divsion of Water with Department approval may adopt rules and regulations pertaining to flood control and water resources found necessary in the administration of its duties. 1966 Ky. Acts c.23, §26; K.R.S. 151.220. (See also, paragraphs 1.2a-b, 1.5a-b, 11.2b, 12.2, 14.9, III 4.2.)

11.2b All officers of Kentucky are required to enforce chapter 151 of K.R.S. (Geology and Water Resources). 1966 Ky. Acts c.23, §36; K.R.S. 151.320. (See also, paragraphs 1.2a-b, 1.5a-1.6, 11.2a, 12.2, 14.1a-b, 14.2, 14.3, 14.6, 14.9, 19.)

12. Department of Public Safety

12.1a Powers and duties of the Commissioner and of the officers, who possess the powers of a peace officer, of the Division of State Police include: detecting and preventing crime, apprehending criminals, and maintaining law and order; enforcing the criminal, motor vehicle, and traffic laws of the Commonwealth; and issuing warrants of arrest. These officers have peace officer powers equivalent to those of sheriffs, constables, and police officers in their respective jurisdictions. 1948 Ky. Acts c.80, §6; K.R.S. 16.060. (See also, paragraphs 1.6, 1.7, 2.1-2.4, 3.2, 3.3, 7-11, 12.1b-12.3, 14.1a-14.3, 19.)

12.1b In 1st-5th class cities, the State Police can exercise their power only if invited; or in hot pursuit, interviewing witnesses, searching for an offender who committed a crime outside a city's boundary, and in enforcing traffic regulations issued by the Commissioner of Highways on state highways within a city (if a city has a Department of Traffic Engineering or Traffic Bureau, then this is not permitted). In these classes of cities, the State Police may exercise their powers on state-owned property; and the State Police may exercise this power by order of the Governor in case of emergencies. Requests for State Police must be approved by the Commissioner of Public Safety. 1950 Ky. Acts c.94; 1948 Ky. Acts c.80, §12; K.R.S. 16.120. (See also, paragraphs 1.6-1.7, 2.1-2.4, 3.2-3.3, 12.1a, 12.2-12.3, 19.8.)

12.2 The Department shall cooperate with other state agencies and with political subdivisions to enforce the laws of the Commonwealth. 1948 Ky. Acts c.80, §13; K.R.S. 16.130. (See also, paragraphs 1-6, 7-11, 12.1a-b, 12.3, 13-14, 19.)

12.3 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 12.1a-12.2.)

13. Air Pollution Control Districts

13.1a A District Board may fix reasonable limits on contaminants by enacting regulations. Emission of air contaminants is prohibited. Emission standards must meet shade # 2 of the Ringelmann Chart. 1954 Ky. Acts c.173, §1; 1952 Ky. Acts c.53, §36; K.R.S. 77.155. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1b-1.)

13.1b Air pollution control officers have right of entry to inspect premises of actual or suspected air polluters. Interference is unlawful. 1952 Ky. Acts c.53, §38; K.R.S. 77.165. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a, 13.1b-1.)

13.1c Violations of K.R.S. 77.150 to 77.175 (air pollution control laws) may be enjoined. 1952 Ky. Acts c.53, §42; K.R.S. 77.175. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 12.2, 13.1a-b, 13.1d-1, 14.1a-b, 14.2,14.3, 15, 18,19.)

13.1d Local air pollution control boards may enact rules and regulations to enforce chapter 77 of K.R.S. 1952 Ky. Acts c.53, §41; K.R.S. 77.180. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-c, 13.1e-1, III 1.7.)

13.1e Local air pollution control boards may enact orders, rules, and regulations for the reduction of air pollution. 1952 Ky. Acts c.53, §46; K.R.S. 77.190. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-d, 13.1f-1, III 1.7.)

13.1f Local air pollution control boards may require permits for the construction and operation of equipment which contributes to air pollution. 1952 Ky. Acts c.53, §48; K.R.S. 77.195. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-e, 13.1g-1.)

13.1g Local air pollution control boards may suspend a permit for failure to furnish information concerning the installation of equipment which contributes to air pollution. 1952 Ky. Acts c.53, §57; K.R.S. 77.220. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-f, 13.1h-1.)

13.1h It is unlawful for any person to violate the air pollution control laws of chapter 77 of K.R.S. 1952 Ky. Acts c.53, §61; K.R.S. 77.235. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-g, 13.1i-1.)

13.1i Violations of K.R.S. 77.235 (13.1h) may be enjoined by the local air pollution control board. 1952 Ky. Acts c.53, §62; K.R.S. 77.240. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 12.2, 13.1a-h, 13.1j-1, 14.1a-b.)

13.1j Variances from the air pollution control laws of chapter 77 of K.R.S. and the local board's regulations may be granted by the local air pollution control board. 1952 Ky. Acts c.53, §63; K.R.S. 77.245. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-i, 13.1k-1.)

13.1k Variances granted by the local air pollution control board may be granted if enforcement of air pollution standards would cause undue hardship without significant public benefit. 1952 Ky. Acts c.53, §67; K.R.S. 77.260. (See also, paragraphs 6.1a-6.2b, 7.9a-g, 13.1a-j, 13.1l.)

13.1l Penalty for 13.1a, 13.1d-k--a fine of not more than $500 nor less than $10. Penalty for 13.1b--a fine of not more than $500 nor less than $10. Each day violation continues constitutes a separate offense. 1954 Ky. Acts c.173, §3; 1952 Ky. Acts c.53, §43 & 61(2); K.R.S. 77.990. (See also, paragraphs 13.1a-k.)

14. Local Enforcement Generally

14.1a The sheriff may command the power of the county to aid him in the execution of his duties as a peace officer. 1962 Ky. Acts c.234, §16; K.R.S. 70.060. (See also, paragraphs 1-6, 12.2, 13.1a-1, 14.1b-14.4, 19.)

14.1b Each sheriff shall execute and make due return of all notices and processes which come to and may be executed lawfully by him. K.R.S. 70.070. (See also, paragraphs 1-6, 12.2, 13.1a-1, 14.1a, 14.1c-14.4, 19.)

14.1c The sheriff shall patrol roads. K.R.S. 70.150. (See also, paragraphs 2.1-2.4, 12.2, 14.1a-b, 14.1d-14.4, 19.)

14.1d The sheriff shall visit roadhouses (restaurants) for observing and enforcing violations of the laws. K.R.S. 70.160. (See also, paragraphs 4, 12.2, 14.a-b, 14.2-14.4, 15, 18-19.)

14.2 Constables may execute processes and make due return on them throughout the county as well as in the constable's district. K.R.S. 70.350. (See also, paragraphs 14.1a-b, 14.4.)

14.3 County police are to enforce all laws and have the same enforcement powers and duties as sheriffs. 1942 Ky. Acts c.115, §1; K.R.S. 70.570. (See also, paragraphs 14.a-d, 14.4.)

14.4 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 14.1a-14.3.)

14.5a County Attorneys shall prosecute violations of forestry laws, chapter 149 of K.R.S. K.R.S. 149.070. (See also, paragraphs 3.1a-e, 11.1a-e, 14.5b.)

14.5b County Attorneys are to prosecute abatement proceedings relating to the injuring of forests. 1964 Ky. Acts c.158, §11; K.R.S. 149.410. (See also, paragraphs 3.1a-e, 11.1a-e, 12.2, 14.1a-b, 14.2-14.3, 14.5a, 19.)

14.5c County Attorneys shall enforce fish and wildlife laws and regulations. 1952 Ky. Acts c.200, §20; 1948 Ky. Acts c.78; 1942 Ky. Acts c.68; K.R.S. 150.130. (See also, paragraphs 1.1a-b, 9.1a-d, 12.2, 14.1a-b, 14.2-14.3, 19.)

14.6 All officers of Kentucky are required to enforce chapter 151 of K.R.S. 1966 Ky. Acts c.23, §36; K.R.S. 151.320. (See also, paragraphs 1.2a-b, 11.2a-b, 12.2, 14.1a-b, 14.2-14.3, 19.)

14.7 Garbage disposal districts shall enact whatever rules and regulations, regarding solid waste disposal, are necessary to insure public health. 1966 Ky. Acts c.66, §7; K.R.S. 109.120. (See also, paragraphs 12.2, 14.1a-b, 14.2,14.3, 15, 18, 19.)

14.8 Highway authorities of all levels can act together in providing and maintaining limited access facilities (highways). Each level of authority may regulate the use of these limited access facilities. 1946 Ky. Acts c.225, §3; K.R.S. 177.230. (See also, paragraphs 2.1-2.4, 10.1.)

14.9 The attorney for a county board of drainage commission shall prosecute violations of drainage laws. K.R.S. 267.410. (See also, paragraphs 1.5a-b, 12.2, 14.1a-b, 14.2,14.3, 19.)

15. Local Health Units (County, City, and District)

15.1 County and City Attorneys within their respective jurisdictions are to prosecute all violations of the penal provisions of Kentucky public health laws. 1954 Ky. Acts c.157, §18; K.R.S. 211.240. (See also, paragraphs 1.4a-b, 4-6, 7.3, 15.2-15.5.)

15.2 Local health units shall abate all nuisances detrimental to health. K.R.S. 212.210. (See also, paragraphs 7.2a, 7.4e, 7.5a, 7.6a, 7.6e, 7.7a, 7.9d, 13.1c, 13.1i, 15.1.)

15.3 City health boards shall have the same powers vested to county health boards by chapter 212 of K.R.S. K.R.S. 212.220. (See also, paragraphs 15.1,15.2, 15.4-15.5, 16,17.)

15.4 Local health units shall enforce state and local health laws and regulations and abate nuisances to health. 1958 Ky. Acts c.96, §4; 1954 Ky. Acts c.209, §5; K.R.S. 212.245. (See also, paragraphs 7.2a, 7.4e, 7.5a, 7.6a, 7.6e, 7.7a, 7.9d, 13.1c, 13.1i, 15.1-15.3, 15.5, 16-18.)

15.5 Local health units shall enforce state and local health laws and regulations. 1958 Ky. Acts c.96, §5; K.R.S. 212.260. (See also paragraphs 1.4a-b, 4-6, 7.3, 15.1-15.4.)

16. City-County Health Board in Counties Containing a First Class City

16.1a The Board enforces state and local health laws and regulations. 1942 Ky. Acts c.41, §2; K.R.S. 212.370. (See also, paragraphs 15.1, 15.3, 15.5, 16.1b.)

16.1b The Board can abate nuisances to public health. 1942 Ky. Acts c.41, §20; K.R.S. 212.620. (See also, paragraphs 15.2-15.4, 16.1a.)

17. City-County Health Board in Counties Containing a Second Class City

17.1a The Board's powers are the same as county health boards' power to enforce state and local health laws and regulations. 1944 Ky. Acts c.122, §4; K.R.S. 212.670. (See also, paragraphs 15, 17.1b.)

17.1b The Health Officer's powers are the same as county health officers' to enforce state and local health laws and regulations. 1944 Ky. Acts c.122, §5; K.R.S. 212.680. (See also, paragraphs 15, 17.1a.)

18. City Powers Regarding Solid Waste Disposal Practices

18.1a Cities can exercise police power in unfit dwellings. 1942 Ky. Acts c.73, §2; K.R.S. 80.630. (See also, paragraphs 18.1b, 18.2-18.7.)

18.1b Cities can set standards regarding unfit dwellings. 1942 Ky. Acts c.73, §7; K.R.S. 80.680. (See also, paragraphs 18.1a, 18.2-18.7.)

18.2 1st Class--Department of Building Inspection can make and enforce health regulations. 1954 Ky. Acts c.162, §3; K.R.S. 83.172. (See also, paragraphs 1.4a-b, 4-6, 7.2a, 12.2, 15.2, 18.1a-b, 19.1-19.2c.)

18.3a 2nd Class--city can enact ordinances protecting public health. K.R.S. 84.210. (See also, paragraphs 18.1a-b, 18.3b-c, 19.1, 19.3-19.5.)

18.3b 2nd Class--city can abate nuisances to health. K.R.S. 84.220. (See also, paragraphs 1.4a-b, 4-6, 7.2a, 12.2, 14.1a-14.3, 15.2, 18.1a-b, 18.3a, 18.3c, 19.1, 19.3-19.5.)

18.3c 2nd Class--city can abate smoke caused by and enact regulations concerning smoke emission. K.R.S. 84.240. (See also, paragraphs 7.9d, 12.2, 13.1c, 13.1i, 14.1a-b, 14.2,14.3, 18.1a-b, 18.3a-b, 19.1, 19.3-19.5.)

18.4a 3rd Class--common council can enact ordinances to protect the general health of the public. K.R.S. 85.120. (See also, paragraphs 18.1a-b, 18.4b, 19.1, 19.3-19.4, 19.6a-b.)

18.4b 3rd Class--common council can abate nuisances. K.R.S. 85.180. (See also, paragraphs 1.4a-b, 4-6, 7.2a, 12.2, 14.1a-14.3, 15.2, 18.1a-b, 18.4a, 19.1, 19.3-19.4, 19.6a-b.)

18.5a 4th Class--city council can enact ordinances for public and general health. K.R.S. 86.140. (See also, paragraphs 18.1a-b, 18.5, 19.1, 19.3, 19.7.)

18.5b 4th Class--city council can abate nuisances. K.R.S. 86.150.

(See also, paragraphs 1.4a-b, 4-6, 7.2a, 12.2, 14.1a-14.3, 15.2, 18.1a-b.)

18.6 5th Class--city council can enact sanitary regulations. K.R.S. 87.070. (See also, paragraphs 18.1a-b, 19.1, 19.3, 19.7.)

18.7 6th Class--Board of Trustees can enact sanitary regulations. K.R.S. 88.080. (See also, paragraphs 18.1a-b, 19.1, 19.3, 19.8.)

19. City Police Power

19.1 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 19.2a-19.8.)

19.2a 1st Class--the Department of Public Safety enforces the lawful ordinances of the city. K.R.S. 83.170. (See also, paragraphs 12.2, 14.1a-14.3, 19.1, 19.2b-c.)

19.2b 1st Class--the police possess all the common law and statutory powers of constables and sheriffs. 1952 Ky.

Acts c.56, §5; K.R.S. 95.150. (See also, paragraphs 12.2, 14.1a-14.3, 19.1, 19.2a, 19.2c.)

19.2c 1st Class--if special police are created and no separate rules are provided for them, they shall have the powers and duties of regular police. 1952 Ky. Acts c.56, §14; K.R.S. 95.160. (See also, paragraphs 19.1, 19.2a-b.)

19.3 2nd-6th Class--if auxiliary police are created, the legislative body of the city shall prescribe their duties and powers. 1968 Ky. Acts c.135; K.R.S. 95.445. (See also, paragraphs 19.1, 19.4-19.8.)

19.4 2nd-3rd Class--the legislative body of a 2nd or 3rd class city may prescribe the duties of police department members. 1956 Ky. Acts c.246, §12; K.R.S. 95.430. (See also, paragraphs 12.2, 19.1, 19.3, 19.5-19.6b.)

19.5 2nd Class--all police officers are conservators of the peace, and shall have and exercise the powers for conservators of the peace as prescribed by statute or ordinance. 1968 Ky. Acts c.152, §59; K.R.S. 84.340. (See also, paragraphs 12.2, 19.1, 19.3, 19.4.)

19.6a 3rd Class--the common council may prescribe duties and powers of police officers of the city. K.R.S. 85.280.

(See also, paragraphs 12.2, 19.1, 19.3, 19.4, 19.6b.)

19.6b 3rd Class--the marshall is a peace officer of the city and the state. He is authorized to execute processes issued by the city. K.R.S. 95.680. (See also, paragraphs 12.2, 19.1, 19.3, 19.4, 19.6a.)

19.7 4th-5th Class--police officers may execute process and make arrests for offenses against municipal ordinances or regulations, and shall have the power of arrest for offenses against the state as does the sheriff. 1946 Ky. Acts c.148; K.R.S. 95.740. (See also, paragraphs 12.2, 19.1, 19.3.)

19.8 6th Class--the marshall controls the police, has the sheriff's power for resistance to law or authority, may execute process, and prosecutes violations of city ordinances. 1968 Ky. Acts c.35; K.R.S. 95.800. (See also, paragraphs 12.1b-12.2, 19.1, 19.3.)

COLLECTION

Covered herein are the statutes relating to collection and transfer of solid waste by a collection agency.

SPECIFIC ACTS PROHIBITED OR COMPELLED BY STATUTE

20. Escaping Contents

20.1a Escaping contents from a vehicle being operated on a highway is prohibited. K.R.S. 189.150. [DPS] (See also, paragraphs 20.1b-20.2b, 24, 25.1a-25.3, 30.)

20.1b Penalty--a fine of not less than $10 nor more than $100 for each offense. 1956 Ky. Acts c.23; 1950 Ky. Acts c.96, §2 & c.97, §2; 1946 Ky. Acts c.96; K.R.S. 189.990. (See also, paragraph 20.1a.)

20.2a Vehicles used in transporting food are to be covered. K.R.S. 217.290. [DH] (See also, paragraphs 20.1a-b, 20.2b, 22.1a-22.2b, 24.2, 25.1a-25.3, 26, 29, 30.)

20.2b Penalty--a fine of not less than $10 nor more than $100, or imprisonment for not more than 30 days, or both, for the first offense. For subsequent offenses, a fine of not less than $50 nor more than $300, or imprisonment for 90 days, or both. Each day the nuisance continues shall be a separate offense. 1968 Ky. Acts c.54; K.R.S. 217.990. (See also, paragraph 20.2a.)

21. Unlawful Collection

21.1 Collection of solid waste within a garbage disposal district after it is established but before Department of Health approves district's disposal plan is a nuisance and is prohibited. 1966 Ky. Acts, c.66, §12; K.R.S. 109.090. (See also, paragraphs 22.5a, 24.2, 25.2, 25.3, 25.5, 26, 29, 30.)

GENERAL ENFORCEMENT AUTHORITY

22. Department of Health

22.1a The State Board of Health adopts all rules and regulations necessary to regulate and control all matters set forth in K.R.S. 211.180. 1954 Ky. Acts c.157, §7; K.R.S. 211.090. (See also, paragraph 22.1b.)

22.1b Matters of concern to the Department include: detention, prevention, and control of communicable diseases; health hazards peculiar to industry; home health hazards; animal diseases transmissible to man; such other diseases and health hazards that may be controlled; control of insects, rodents, and other vectors of disease; proper disposal of garbage, waste, and other refuse; safe handling of food and food products; sanitation of schools, industrial establishments and other public and semi-public buildings; review and approval or disapproval of plans for constructions, modification, or extension of food handling establishments and such other establishments, systems, plants, and places as are designated by the Board; licensure of hospitals, and the control of such other factors as may be necessary to insure a safe and sanitary environment. 1954 Ky. Acts c.157, §12; K.R.S. 211.180 (See also, paragraphs 20.2a-b, 22.1a, 26, 29, 30, III 1.)

22.2a The Department shall abate all nuisances detrimental to health. 1954 Ky. Acts, c.157, §15; K.R.S. 211.210. (See also, paragraphs 20.2a-b, 22.2b, 22.4d, 22.5b, 24.2, 26, 29, 30.)

22.2b Penalty--a fine of not less than $10 nor more than $100. Each day's continuance of the nuisance, after notification to eliminate it, shall constitute a separate offense. 1960 Ky. Acts c.47, §7; K.R.S. 211,990. (See also, paragraph 22.2a.)

22.3 Attorney General and Commonwealth Attorneys within their respective jurisidctions are to prosecute all violations of the penal provisions of Kentucky pbulic health laws. 1954 Ky. Acts c.157, §18; K.R.S. 211.240. (See also, paragraphs 20.2a-b, 22.4a-22.5b, 24.2, 26.1.)

22.4a The Department licenses septic tank servicing. 1968 Ky. Acts c.82, §2; K.R.S. 224.223. (See also, paragraphs 22.4b-e.)

22.4b Commissioner approves license for septic tank service. 1968 Ky. Acts c.82, §3; K.R.S. 224.227. (See also, paragraphs 22.4a, 22.4c-e.)

22.4c Commissioner issues standards for vehicles transporting septic tank wastes. 1968 Ky. Acts c.82, §4; K.R.S. 224.280. (See also, paragraphs 20.1a-b, 22.4a-b, 22.4d-e.)

22.4d Operation of septic tank service cannot create a nuisance or health hazard. 1968 Ky. Acts c.82, §5; K.R.S. 224.233. (See also, paragraphs 22.4a-c, 22.4e.)

22.4e Penalty--a fine of not less than $25 nor more than $100. Each day violation continues constitutes a separate offense. 1968 Ky. Acts c.82, §8; K.R.S. 224.992. (See also, paragraphs 22.4a-d.)

22.5a The Department must approve solid waste collection plans by a garbage disposal district. 1966 Ky. Acts c.66, §10; K.R.S. 109.080. (See also, paragraphs 21.1, 22.5b.)

22.5b The Department can abate the nuisance of unlawful solid waste collection in a garbage disposal district. 1966 Ky. Acts c.66, §12; K.R.S. 109.090. (See also, paragraphs 21.1, 22.2a, 22.5a.)

23. Department of Agriculture

23.1a License required for the collection of animal carcasses is issued by the Commissioner. 1966 Ky. Acts c.47, §2; K.R.S. 263.020. (See also, paragraphs 23.1b-f.)

23.1b Method of collection of animal carcasses must be stated in license application. 1966 Ky. Acts c.47, §3; K.R.S. 263.030. (See also, paragraphs 23.1a, 23.1c-f.)

23.1c Collection vehicles must be cleaned by steam or by other methods and procedures approved by the Department. 1966 Ky. Acts c.47, §8; K.R.S. 263.080. (See also, paragraphs 23.1a-b, 23.1d-f.)

23.1d The Department adopts and enforces such regulations as are necessary for sanitary animal carcass collection.

1966 Ky. Acts c.47, §10; K.R.S. 263.100. (See also, paragraphs 20.1a-b, 23.1a-c, 23.1e-f, 24.2, 25.1a-25.3, 30, III 2.)

23.1e The Department shall inspect vehicles used in animal carcass collection at least once a year. 1966 Ky. Acts c.47, §11; K.R.S. 263.110. (See also, paragraphs 23.1a-d, 23.1f.)

23.1f Penalty--a fine of not less than $10 nor more than $500 for each offense. 1966 Ky. Acts c.47, §18; K.R.S. 263.900. (See also, paragraphs 23.1a-e.)

24. Department of Public Safety

24.1a Powers and duties of the Commissioner and of the officers, who possess the powers of a peace officer, of the Division of State Police include: detecting and preventing crime, apprehending criminals, and maintaining law and order; enforcing the criminal, motor vehicle, and traffic laws of the Commonwealth; and issuing warrants of arrest. These officers have the peace officer powers equivalent to that of sheriffs, constables, and police officers in their respective jurisdictions. 1948 Ky. Acts c.80, § 6; K.R.S. 16.060. (See also, paragraphs 20.1a-21.1, 22, 23, 24.1b-24.3, 25.1a-25.3, 30.)

24.1b In 1st-5th class cities, the State Police can exercise their power only if invited; or in hot pursuit, interviewing witnesses, searching for an offender who committed a crime outside a city's boundary, and in enforcing traffic regulations issued by the Commissioner of Highways on state highways within a city (if a city has a Department of Traffic Engineering or Traffic Bureau, then this is not permitted). In these classes of cities, the State Police may exercise their powers on state owned property; and the State Police may exercise this power by order of the Governor in case of emergencies. Requests for State Police must be approved by the Commissioner of Public Safety. 1950 Ky. Acts c.94; 1948 Ky. Acts c.80, §12; K.R.S. 16.120. (See also, paragraphs 20.1a-21.1, 30.8.)

24.2 The Department shall cooperate with other state agencies and with political subdivisions to enforce the laws of the Commonwealth. 1948 Ky. Acts c.80, §13; K.R.S. 16.130. (See also, paragraphs 20.1a-21.1, 22, 23, 24.1a-b, 24.3, 25, 30.)

24.3 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony, or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 24.1a-24.2)

25. Local Enforcement Generally

25.1a The sheriff may command the power of the county to aid him in the execution of his duties as a peace officer. 1962 Ky. Acts c.234, §16; K.R.S. 70.060. (See also, paragraphs 20, 21, 24.2, 25.1b-25.4, 30.)

25.1b Each sheriff shall execute and make due return of all notices and processes which come to and may be executed lawfully by him. K.R.S. 70.070 (See also, paragraphs 20, 21, 24.2, 25.1a, 25.1c, 30.)

25.1c The sheriff shall patrol roads. K.R.S. 70.150. (See also, paragraphs 20.1a-20.2b, 24.2, 25.1a-b, 30.)

25.2 Constables may execute processes and make due return on them throughout the county as well as in the constable's district. K.R.S. 70.350 (See also, paragraphs 25.1a-b, 25.4.)

25.3 County police are to enforce all laws and have the same enforcement powers and duties as sheriffs. 1942 Ky. Acts c.115, §1; K.R.S. 70.570. (See also, paragraphs 25.1a-c, 25.4.)

25.4 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 25.1a-25.3.)

25.5 Garbage disposal districts shall enact whatever rules and regulations regarding solid waste collection are necessary to insure public health. 1966 Ky. Acts, c.66, §7; K.R.S. 109.120. (See also, paragraphs 21.1, 24.2, 25.1a-b, 25.2-25.3, 26, 29, 30.)

26. Local Health Units (County, City and District)

26.1 County and City Attorneys within their respective jurisdictions are to prosecute all violations of the penal provisions of Kentucky public health laws. 1954 Ky. Acts c.157, §18; K.R.S. 211.240. (See also, paragraphs 20.2a-b, 22.3, 26.2-26.5.)

26.2 Local health units shall abate all nuisances detrimental to health. K.R.S. 212.210. (See also, paragraphs 22.2a, 22.4d, 22.5b, 26.1, 26.3-26.5, 27-29.)

26.3 City health boards shall have the same powers vested to county health boards by chapter 212 of K.R.S. K.R.S. 212.220. (See also, paragraphs 26.1-26.2, 27, 28.)

26.4 Local health units shall enforce state and local health laws and regulations and abate nuisances to health. 1958 Ky. Acts c.96, §4; 1958 Ky. Acts c.209; K.R.S. 212.245. (See also, paragraphs 22.2a, 22.4d, 22.5b, 26.1-26.3, 26.5, 27-29.)

26.5 Local health unit officers shall enforce state and local health laws and regulations. 1958 Ky. Acts c.96, §5; K.R.S. 212.260. (See also, paragraphs 20.2a-b, 22.3, 26.1-26.4.)

27. City-County Health Board in Counties Containing a First Class City

27.1a The Board enforces state and local health laws and regulations. 1942 Ky. Acts c.41, §2; K.R.S. 212.370. (See also, paragraphs 26.1, 26.3, 26.5, 27.1b.)

27.1b The Board can abate nuisances to public health. 1942 Ky. Acts c.41, §20; K.R.S. 212.620. See also, paragraphs 26.2-26.4, 27.1a.)

28. City-County Health Board in Counties Containing a Second Class City

28.1a The Board's powers are the same as county health boards' power to enforce state and local health laws and regulations. 1944 Ky. Acts c.122, §4; K.R.S. 212.670. (See also, paragraphs 26, 28.1b.)

28.1b The Health Officer's powers are the same as county health officers' to enforce state and local health laws and regulations. 1944 Ky. Acts c.222, §5; K.R.S. 212.680. (See also, paragraphs 26, 28.1a.)

29. City Powers Regarding Solid Waste Collection Practices

Note: in first class cities, collection is a function of the Department of Sanitation; the city-county health board can also enact regulations for this (27.1a-b). Thus, no statutes for first class city powers are included here.

29.1a 2nd Class--city can enact ordinances protecting public health K.R.S. 84.210. (See also, paragraphs 29.1b-c, 30.1, 30.3-30.5.).

29.1b 2nd Class--city can abate nuisances to health. K.R.S. 84.220. (See also, paragraphs 20.2a-b, 22.2a, 24.2, 25.1a-25.3, 26.2, 29.1a, 29.1c, 30.1, 30.3-30.5.)

29.1c 2nd Class--city may inspect vehicles for air pollution and abate emissions from vehicles. K.R.S. 84.240. (See also, paragraphs 25.1a-b, 25.2-25.3, 29.1a-b, 30.1, 30.3-30.5.)

29.1d 2nd Class--city in granting franchise can establish collection standards. K.R.S. 84.270. (See also, paragraphs 30.1, 30.3-30.5.)

29.2a 3rd Class--common council can enact ordinances to protect the general health of the public. K.R.S. 85.120. (See also, paragraphs 29.2b, 30.1, 30.3-30.4, 30.6a-b.)

29.2b 3rd Class--common council can abate nuisances. K.R.S. 85.180. (See also, paragraphs 20.2a-b, 22.2a, 24.2, 25.1a-25.3, 26.2, 29.2a, 30.1, 30.3-30.4, 30.6a-b.)

29.3a 4th Class--city council can enact ordinances for public and general health. K.R.S. 86.140. (See also, paragraphs 29.3b, 30.1, 30.3, 30.7.)

29.3b 4th Class--city council can abate nuisances. K.R.S. 86.150. (See also, paragraphs 20.2a-b, 22.2a, 24.2, 25.1a-25.3, 26.2, 29.3a, 30.1, 30.3, 30.7.)

29.4 5th Class--city council can enact sanitary regulations. K.R.S. 87.070. (See also, paragraphs 30.1, 30.3, 30.8.)

29.5 6th Class--Board of trustees can enact sanitary regulations. K.R.S. 88.080 (See also, paragraphs 30.1, 30.3, 30.8.)

30. City Police Power

30.1 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 30.2a-30.8.)

30.2a 1st Class--the Department of Public Safety enforces the lawful ordinances of the city. K.R.S. 83.170. (See also, paragraphs 24.2, 25.1a-25.3, 30.1, 30.2b-c.)

30.2b 1st Class--the police possess all the common law and statutory powers of constables and sheriffs. 1952 Ky. Acts c.56, §5; K.R.S. 95.150. (See also, paragraphs 24.2, 25.1a-25.3, 30.1, 30.2a, 30.2c.)

30.2c 1st Class--if special police are created and no separate rules are provided for them, they shall have the powers and duties of regular police. 1952 Ky. Acts c.56, §14; K.R.S. 95.160. (See also, paragraphs 30.1, 30.2b.)

30.3 2nd-6th Class--if auxiliary police are created, the legislative body of the city shall prescribe their duties and powers. 1968 Ky. Acts c.135; K.R.S. 95.445. (See also paragraphs 30.1, 30.4-30.8.)

30.4 2nd-3rd Class--the legislative body of a 2nd or 3rd class city may prescribe the duties of police department members. 1956 Ky. Acts c.246, §12; K.R.S. 95.430. (See also, paragraphs 24.2, 30.1, 30.5, 30.6b.)

30.5 2nd Class--all poloce officers are conservators of the peace and shall have and exercise the powers for conservators of the peace as prescribed by statute or ordinance. 1968 Ky. Acts c.152, §59; K.R.S. 84.340. (See also, paragraphs 24.2, 30.1, 30.3-30.4.)

30.6a 3rd Class--the common council may prescribe duties and powers of police officers of the city. K.R.S. 85.280. (See also, paragraphs 24.2, 30.1, 30.3-30.4, 30.6b.)

30.6b 3rd Class--the marshall is a peace officer of the city and the state. He is authorized to execute processes issued by the city. K.R.S. 95.680. (See also, paragraphs 24.2, 30.1, 30.3-30.4, 30.6a.)

30.7 4th-5th Class--police officers may execute process and make arrests for offenses against municipal ordinances or regulations, and shall have the power of arrest for offenses against the state as does the sheriff. 1946 Ky. Acts c.148; K.R.S. 95.740. (See also, paragraphs 24.2, 30.1, 30.3.)

30.8 6th Class--the marshall controls the police, has the sheriff's power for resistance to law or authority, may execute process, and prosecutes violations of city ordinances. 1968 Ky. Acts c.35; K.R.S. 95.800. (See also, paragraphs 24.1b-24.2, 30.1, 30.3.)

PUBLIC DISPOSAL

Covered herein are the statutes controlling sanitary landfills, dumping, and volume reduction by incineration.

SPECIFIC ACTS PROHIBITED OR COMPELLED BY STATUTE

31. Water Pollution

31.1a Injurious substances are not to be placed in public waters. 1968 Ky. Acts. c.38, §24; K.R.S. 150.460. [DF&W]. (See also, paragraphs 31.1b - 31.7, 37.1a-d, 39.2, 42.1a-42.3, 42.5c.)

31.1b Penalty--a fine of not less than $100 nor more than $500, or imprisonment for not more than six months, or both, in addition to costs to the Department of Fish and Wildlife Resources for restocking fish or replenishing other wildlife which has been killed or destroyed. 1968 Ky. Acts c.38, §28, K.R.S. 150.990. (See also, paragraph 31.1a.)

31.2a Deposits which restrict or disturb the flow of water in the channel in the floodway of a stream are prohibited without a permit issued by the Division of Water, Department of Natural Resources. 1966 Ky. Acts c.23, §35; K.R.S. 151.310. [DNR]. (See also, paragraphs 31.1a-b, 31.2b-31.7, 38.2a-b, 39.2, 42.1a-42.3, 42.6, 47.)

31.2b Penalty--a fine of not more than $1,000 for each violation. Each day upon which such violation occurs or continues is a separate offense. 1966 Ky. Acts c.23, §38; K.R.S. 151.990. (See also, paragraph 31.2a.)

31.3a Navigable streams are not to be obstructed. K.R.S. 182.010. [DNR]. (See also, paragraphs 31.a-31.2b, 31.3b, 38.2a-b, 39.2, 42.1a-42.3, 42.6, 47.)

31.3b Penalty--a fine of not less than $50 nor more than $500 for each offense. K.R.S. 182.990. (See also, paragraph 31.3a.)

31.4a Water pollution by any type of waste is prohibited. 1950 Ky. Acts. c.69, §7; K.R.S. 224.060. [DH]. (See also, paragraphs 31.1a-31.3b, 31.4b-31.7, 35.1a-35.2b, 35.6, 39.2, 42.1a-42.3, 43, 46,47.)

31.4b Penalty--a fine not to exceed $1,000 for such a violation. Additional fine of $1,000 for each day offense continues. Violations may be enjoined. 1950 Ky. Acts c.69, §9; K.R.S. 224.990. (See also, paragraph 31.4a.)

31.5a Obstruction of a waterway used as a drain for a drainage area or reclamation project is prohibited. K.R.S. 267.470. (See also, paragraphs 31.1a-31.4b, 31.5b-31.7, 38.2a-b, 39.2, 42.1a-42.3, 42.8, 47.)

31.5b Penalty--a fine of not less than $10 nor more than $100 for not removing obstruction within 30 days after notice by the Superintendent of Drainage of a drainage district. K.R.S. 267.990. (See also, paragraph 31.5a.)

31.6 Littering or dumping in public waters is a crime against property, punishable by a fine of not less than $25 nor more than $300 for each offense. 1966 Ky. Acts c.23, §78; K.R.S. 433.757. [DPS]. (See also, paragraphs 31.1a-31.5b, 31.7, 33.1a, 35.4a-b, 39, 42.1a-42.3, 47.)

31.7 Contaminating a watercourse is a crime against public health and safety. Penalty for making water unfit for use or producing a stench is a fine of not less than $100 and imprisonment for not less than 30 days nor more than six months. Penalty for contaminating with an animal carcass is a fine of not less than $5 nor more than $20 for the first offense, and not less than $20 nor more than $100 for each subsequent offense. K.R.S. 438.060. [DPS] (See also, paragraphs 31.1a-31.6, 33.1a, 35.6, 39, 42.1a-42.3, 47.)

32. Fire Hazards and Dumping

32.1a Acts which create fire hazards in forests are prohibited.

1966 Ky. Acts c.23, §43; 1964 Ky. Acts c.158, §3; K.R.S. 149.370. [DNR]. (See also, paragraphs 32.1b-32.2, 38.1a-e, 39.2, 42.1a-42.3, 47.)

32.1b Setting fire to flammable materials on one's land which is within or near a forest is prohibited unless proper precautions are taken. 1966 Ky. Acts c.23, §44; 1964 Ky. Acts c.158, §4; K.R.S. 149.375. [DNR]. (See also, paragraphs 32.1a, 32.1c-32.2, 38.1a-e, 39.2, 42.1a-42.3, 47.)

32.1c Setting fire to flammable material on another's land which is within or near a forest is prohibited unless proper precautions are taken. 1966 Ky. Acts c.23, §45; 1965 Ky. Acts c.158, §5; K.R.S. 149.385. [DNR]. (See also, paragraphs 32.1a-b, 32.1d-32.2, 38.1a-e, 39.2, 42.1a-42.3, 47.)

32.1d Operation of a dump within 150 feet of a forest is prohibited unless proper precautions are taken. The Division of Forestry, Department of Natural Resources, shall set standards to enforce this. 1964 Ky. Acts c.158, §8; K.R.S. 149.395. [DNR]. (See also, paragraphs 32.1a-c, 32.1e-32.2.)

32.1e Penalty for 32.1a--a fine of not less than $10 nor more than $50, or imprisonment for not less than 10 days nor more than six months, or both. Penalty for 32.1b--a fine of not less than $10, nor more than $100, or imprisonment for not less than six months, or both. Penalty for 32.1c-d--a fine of not more than $200 or imprisonment for not more than three months, or both. 1964 Ky. Acts c.158, §18; K.R.S. 149.991. (See also, paragraphs 32.1a-d.)

32.2 Unlawful firing of flammable objects capable of spreading fire is a crime against property and is punishable by a fine of not less than $10 nor more than $200, or imprisonment not less than 10 days nor more than three months, or both. 1964 Ky. Acts c.158, §20; K.R.S. 433.070, [DPS] (See also, paragraphs 32.1a-d, 39, 42.1a-42.3, 47.)

33. Solid Waste, Septic Tanks, and Animal Carcasses

33.1a Solid Waste is to be disposed of only at Department of Health permitted sites. 1968 Ky. Acts c.192, §7; K.R.S. 211.707. [DH]. (See also, paragraphs 31.6, 31.7, 32.1d, 33.1b, 35.1a-35.4f, 39.2, 42.1a-42.3, 43, 46, 47.)

33.1b Penalty--a fine of not less than $100 nor more than $500, or imprisonment for not more than 30 days, or both. 1968

Ky. Acts c.192, §11; K.R.S. 211.992. (See also, paragraph 33.1a.)

33.2 Disposal of solid waste within a garbage disposal district after it is established, but before the Department of Health approves the district's disposal plan, is a nuisance and is prohibited. 1966 Ky. Acts c.66, §12; K.R.S. 109.090. (See also, paragraphs 35.5a, 39.2, 42.1a-42.3, 42.7, 43, 46, 47.)

33.3a The burial of septic tank waste cannon create a nuisance or a health hazard. 1968 Ky. Acts c.192, §5; K.R.S. 224.223. [DH]. (See also, paragraphs 33.3b, 35.1a-35.3, 39.2, 42.1a-42.3, 43, 46, 47.)

33.3b Penalty--a fine of not less than $25 nor more than $100. Each day nuisance continues constitutes a separate offense. 1968 Ky. Acts c.192, §8; K.R.S. 225.992. (See also, paragraph 33.3a.)

33.4a Carcasses of animals which have died from or been destroyed because of disease (except those destroyed because of tuberculosis) shall be destroyed by complete cremation, by boiling or heating with steam at a temperature above boiling for at least two hours, or by burying the carcass at least four feet underground, provided the burial point is never covered with the overflow from ponds or streams and is at least 100 feet from any watercourse. The owner shall dispose of the carcass within 48 hours after it is found. K.R.S. 257.160. [DAGR] (See also, paragraphs 33.4b-d, 36.2a-c, 39.2, 42.1a-42.3, 47.)

33.4b Penalty--a fine of not less than $10 nor more than $50 for the first offense. A fine of not less than $100 nor more than $500, or imprisonment, or both, for each subsequent offense. Penalty for the last sentence in 33.4a--a fine of not less than $10 nor more than $50. 1948 Ky. Acts c.19, §2; 1942 Ky. Acts c.196, §2; K.R.S. 257.990. (See also, paragraph 33.4a.)

33.4c The following disposal requirements shall be observed: Processing within 48 hours after delivery to plant, cooking vats or tanks shall be airtight, steam used shall not cause a nuisance, skinning shall be done within the building, and no uncooked bodies or parts thereof shall be fed to livestock. 1966 Ky. Acts c.47, §9; K.R.S. 263.090. [DAGR] (See also, paragraphs 33.4a-b, 33.4d, 36.3a-g, 39.2, 42.1a-42.3, 47.)

33.4d Penalty--a fine of not less than $10 nor more than $500 for each offense. 1966 Ky. Acts c.47, §18; K.R.S. 263.990. (See also, paragraph 33.4c.)

34. Air Pollution

34.1a Emission of air contaminants is prohibited. Emission standards must conform with shade #2 of the Ringelmann Chart. 1954 Ky. Acts c.173, §1; 1952 Ky. Acts c.53, §36; K.R.S. 77.155. (See also, paragraphs 34.1b-34.2b, 35.7a-g, 39.2, 41.1a-1, 42.1a-42.3, 43, 46,47.)

34.1b Penalty--a fine of not more than $500 nor less than $10 for each offense. Each day violation continues shall be a separate offense. 1954 Ky. Acts c.173, §3; K.R.S. 77.990. (See also, paragraph 34.1a.)

34.2a Air pollution emitted in violation of Air Pollution Control Commission standards is prohibited. 1966 Ky. Acts c.22, §5; K.R.S. 224.330. [DH] (See also, paragraphs 34.1a-b, 34.2b, 35.1a-35.3, 35.7a-g, 39.2, 41.1a-1, 42.1a-42.3, 43, 46, 47.)

34.2b Penalty--a fine of not less than $100 nor more than $1,000, or imprisonment for not more than one year, or both. Each day violation continues shall be a separate offense. 1966 Ky. Acts c.22, §17; K.R.S. 224.991. (See also, paragraph 34.2a.)

GENERAL ENFORCEMENT AUTHORITY

35. Department of Health

35.1a The State Board of Health adopts all rules and regulations necessary to regulate and control all matters set forth in K.R.S. 211.180. 1954 Ky. Acts c.157, §7; K.R.S. 211.090. (See also, paragraph 35.1b.)

35.1b Matters of concern to the Department include: detention, prevention, and control of communicable diseases; health hazards peculiar to industry; home health hazards; animal diseases transmissible to man; such other diseases and health hazards that may be controlled; control of insects, rodents, and other vectors of disease; proper disposal of garbage, waste, and other refuse; safe handling of food and food products; sanitation of schools, industrial establishments, and other public and semipublic buildings; review and approval or disapproval of plans for construction, modification, or extension of food handling establishments and such other establishments, systems, plants, and places as are designated by the Board; licensure of hospitals; and the control of such other factors as may be necessary to insure a safe and sanitary environment. 1954 Ky. Acts c.157, §12; K.R.S. 211.180. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34.2a-b, 35.1a, 35.4d, 35.6, 35.7f, III 1.)

35.2a The Department shall abate all nuisances detrimental to health. 1954 Ky. Acts c.157, §15; K.R.S. 211.210. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 35.2b-35.3, 35.4e, 35.7d, 39.2, 43, 46, 47.)

35.2b Penalty--a fine of not less than $10 nor more than $100. Each day's continuance of the nuisance shall constitute a separate offense. 1960 Ky. Acts c.47, §7; K.R.S. 211.990. (See also, paragraph 35.2a.)

35.3 Attorney General and Commonwealth Attorneys within their respective jurisdictions are to prosecute all violations of the penal provisions of Kentucky Public Health Laws. 1954 Ky. Acts c.157, §18; K.R.S. 211.240. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34.2a-b, 35.4a-35.7g, 39.2, 43.1.)

35.4a A permit is required from the Department for the construction or operation of a solid waste disposal site or facility. 1968 Ky. Acts c.192, §5; K.R.S. 211.713. (See also, paragraphs 33.1a-b, 35.4b-f, 40.1a.)

35.4b A permit is required from the Department for the continuation of an existing solid waste disposal site or facility. 1968 Ky. Acts c.192, §6; K.R.S. 211.717. (See also, paragraphs 33.1a-b, 35.4a, 35.4c-f, 40.1a.)

35.4c The Department shall supervise the operation, maintenance, and establishment of solid waste sites and facilities. 1968 Ky. Acts c.192, §3; K.R.S. 211.720. (See also, paragraphs 33.1a-b, 35.4a-b, 35.4d-f.)

35.4d The Department shall enact whatever rules and regulations are necessary for control of solid waste disposal. 1968 Ky. Acts c.192, §8; K.R.S. 211.727. (See also, paragraphs 33.1a-b, 35.1a-b, 35.4a-c, 35.4e-f, III 1.1a-d.)

35.4e Violations of the solid waste laws and regulations may be enjoined by the Department. 1968 Ky. Acts c.192, §10; K.R.S. 211.730. (See also, paragraphs 33.1a-c, 35.2a, 35.4a-d, 35.4f.)

35.4f Penalty--a fine of not less than $100 nor more than $500, or imprisonment for not more than 30 days, or both, for violating solid waste laws and regulations. 1968 Ky. Acts c.192, §11; K.R.S. 211.992. (See also, paragraphs 35.4a-e.)

35.5a The Department must approve the solid waste disposal plans of a garbage disposal district. 1966 Ky. Acts c.66, §10; K.R.S. 109.080. (See also, paragraphs 33.2, 35.5b.)

35.5b The Department can abate the nuisance of unlawful solid waste disposal in a garbage disposal district. 1966 Ky. Acts c.66, §12; K.R.S. 109.090. (See also, paragraph 35.5a.)

35.6 The Water Pollution Control Commission shall enforce K.R.S. 224.010 to 224.060, 224.080, and 224.100 and all rules, regulations, and orders promulgated thereunder. The Commission adopts rules for water pollution and investigates premises of water polluters. The Commission also can require permits for water pollution operations, and regulate deposits of industrial wastes into any waters. 1950 Ky. Acts c.69, §5; K.R.S. 224.040. (See also, paragraphs 31.4a-b, 31.7, 35.1a-b, III 1.5.)

35.7a Persons whose business contributes to air pollution must register with the Air Pollution Control Commission of the

Department. 1966 Ky. Acts c.22, §7; K.R.S. 224.350. (See also, paragraphs 34.1a-b, 34.2a-b, 35.7b-g, 41.)

35.7b The Commission shall set standards for and regulate the operation of equipment which contributes to air pollution. 1966 Ky. Acts c.22, §8; K.R.S. 224.360. (See also, paragraphs 34.1a-34.2b, 35.7a, 35.7c-g, 41.)

35.7c The Commission may inspect the premises of actual or suspected air polluters. Interference is unlawful. 1966 Ky. Acts c.22, §9; K.R.S. 224.370. (See also, paragraphs 34.1a-34.2b, 35.7a-b, 35.7d-g, 41.)

35.7d The Executive Secretary of the Commission may issue orders for emergency abatement of air pollution. 1966 Ky. Acts c.22, §12; K.R.S. 224.400. (See also, paragraphs 34.1a-34.2b, 35.2a, 35.7a-c, 35.7e-g, 39.2, 41.)

35.7e The Commission may grant exemptions from air pollution laws and regulations. 1966 Ky. Acts c.22, §13; K.R.S. 224.410. (See also, paragraphs 34.1a-34.2b, 35.7a-d, 35.7f-g, 41.)

35.7f The Commission shall enforce air pollution control laws and adopt and enforce such regulations as are necessary for air pollution control. 1966 Ky. Acts c.22, §4; K.R.S. 224.430. (See also, paragraphs 34.1a-34.2b, 35.7a-e, 35.7g, 41, III 1.7.)

35.7g Penalty for 35.7a-c and 35.7e-f--a fine of not less than $100 nor more than $1,000, imprisonment for not more than one year, or both. Each day violation continues shall be a separate offense. Penalty for 35.7d--a fine of not more than $1,000. A fine of $1,000 for each day violation continues. 1966 Ky. Acts c.22, §17; K.R.S. 224.991. (See also, paragraphs 35.7a-f.)

36. Department of Agriculture

36.1 Buying, selling, and transporting of dead, injured, or diseased animals must be undertaken in accordance with such regulations as the Department may prescribe. 1968 Ky. Acts c.205, §20; K.R.S. 217.863. (See also, paragraphs 36.2a-36.3g, III 2.2.)

36.2a Duties of the State Board of Agriculture include enforcing the provisions of chapter 257 of K.R.S. (Livestock and Poultry Disease Control) and adopting and enforcing such measures as it deems necessary to improve and protect the livestock industry. K.R.S. 257.020. (See also, paragraphs 33.4a-b, 36.1, 36.2b-36.3g, III 2.)

36.2b Powers of the Board include adopting and enforcing regulations to enforce chapter 257 of K.R.S. (Livestock and Poultry Disease Control). K.R.S. 257.030. (See also, paragraphs 33.4a-b, 36.1-36.2a, 36.2c-36.3g, 40.1a.)

36.2c Penalty--a fine of not less than $10 nor more than $50 for the first offense. A fine of not less than $100 nor more than $500, or imprisonment, or both, for each subsequent offense. 1948 Ky. Acts c.19, §2; K.R.S. 257.990. (See also, paragraphs 36.2a-b.)

36.3a Licenses required for the disposition of animal carcasses are issued by the Commissioner. 1966 Ky. Acts c.47, §2; K.R.S. 263.020. (See also, paragraphs 33.4c-d, 36.1-36.2c, 36.3b-g, 40.1a.)

36.3b The method of disposition of animal carcasses must be stated in license application. 1966 Ky. Acts c.47, §3; K.R.S. 263.030. (See also, paragraphs 33.4c-d, 36.1-36.3a, 36.3c-g.)

36.3c Inspection of the applicant's premises by the Department is required before a license is issued. 1966 Ky. Acts c.47, §4; K.R.S. 263.040. (See also, paragraphs 33.4c-d, 36.1-36.3b, 36.3d-g.)

36.3d Disposal plants must be cleaned by steam or by other methods and procedures, and meet standards approved by the Department. 1966 Ky. Acts c.47, §9; K.R.S. 263.080. (See also, paragraphs 33.4c-d, 36.1-36.3c, 36.3e-g.)

36.3e The Department adopts and enforces such regulations as are necessary for sanitary animal carcass disposal. 1966 Ky. Acts c.47, §10; K.R.S. 263.100. (See also, paragraphs 33.4c-d, 36.1-36.3d, 36.3f-g, 39.2, 42.1a-42.3, 47, III 2.)

36.3f The Department shall inspect animal carcass disposal plants at least once a year. 1966 Ky. Acts c.47, §11; K.R.S. 263.110. (See also, paragraphs 33.4c-d, 36.1-36.3e, 36.3g.)

36.3g Penalty--a fine of not less than $10 nor more than $500 for each offense. 1966 Ky. Acts c.47, §18; K.R.S. 263.990. (See also, paragraphs 36.3a-f.)

37. Department of Fish and Wildlife Resources

37.1a The Department may adopt regulations governing restoration of the supply of wildlife damaged by the destruction of breeding conditions and food supply. The Department may adopt the necessary regulations to implement chapter 150 of K.R.S. 1968 Ky. Acts c.38, §2; 1966 Ky. Acts c.230.

§144; 1956 Ky. Acts c.208; 1952 Ky. Acts c.200, §7; 1948 Ky. Acts c.78, §4; K.R.S. 150.025. (See also, paragraphs 31.1a-b, 37.1b-d, III 3.)

37.1b Conservation and peace officers shall enforce chapter 150 of K.R.S. They may arrest without warrant, on site, violators of this chapter. 1968 Ky. Acts c.38, §3; 1956 Ky. Acts c.115, §7; 1952 Ky. Acts c.200, §14; 1942 Ky. Acts c.68, §9; K.R.S. 150.090. (See also, paragraphs 31.1a-b, 37.1a, 37.1c-d, 39.2, 42.1a-42.3, 47.)

37.1c Commissioner and Department personnel may execute process to enforce chapter 150 of K.R.S. 1952 Ky. Acts c.200, §16; 1942 Ky. Acts c.68; K.R.S. 150.100. (See also, paragraphs 31.1a-b, 37.1a-b, 37.1d, 42.5c.)

37.1d Commonwealth Attorneys shall enforce fish and wildlife laws and regulations. 1952 Ky. Acts c.200, §20; 1948 Ky. Acts c.78; 1942 Ky. Acts c.68; K.R.S. 150.130. (See also, paragraphs 31.1a-b, 37.1a-c, 42.5c.)

38. Department of Natural Resources

38.1a Commonwealth Attorneys shall prosecute violations of forestry laws, chapter 149 of K.R.S. K.R.S. 149.070.

(See also, paragraphs 31.6, 32.1a-e, 38.1b-e, 39.2, 42.1a-42.3, 42.5a,47.)

38.1b The Division of Forestry sets standards relating to the operation of dumps within or adjacent to forests. 1964 Ky. Acts c.158, §8; K.R.S. 149.395. (See also, paragraphs 31.6, 32.1a-e, 38.1a, 38.1c-e, 39.2, III 4.1.)

38.1c Commonwealth Attorneys are to prosecute abatement proceedings regarding the injuring of forests. 1964 Ky. Acts c.158, §11; K.R.S. 149.410. (See also, paragraphs 31.6, 32.1a-e, 38.1a-b, 38.1d-e, 42.5b.)

38.1d The Division shall administer, investigate violations of, and enact necessary regulations to implement K.R.S. 149.360 to 149.430 (forestry law). 1964 Ky. Acts c.158, §12; K.R.S. 149.415. (See also, paragraphs 31.6, 32.1a-e, 38.1a-c, 38.1e, III 4.1.)

38.1e The Division shall inspect premises to enforce forestry regulations. 1964 Ky. Acts c.158, §13; K.R.S. 149.420. (See also, paragraphs 31.6, 32.1a-e, 38.1a-d.)

38.2a The Division of Water with Department approval may adopt rules and regulations pertaining to flood control and water resources found necessary in the administration of its duties. 1966 Ky. Acts c.23, §26; K.R.S. 151.220. (See also, paragraphs 31.2a-b, 31.5a-b, 38.2b, 39.2, 42.8, III 4.2.)

38.2b All officers of Kentucky are required to enforce Chapter 151 of K.R.S. (Geology and Water Resources). 1966 Ky. Acts c.23, §36; K.R.S. 151.320. (See also, paragraphs 31.2a-b, 31.5a-b, 38.2a, 42.1a-42.3, 42.6, 42.8, 47.)

39. Department of Public Safety

39.1a Powers and duties of the Commissioner and of the officers, who possess the powers of a peace officer, of the Division of State Police include: detecting and preventing crime, apprehending criminals, and maintaining law and order; enforcing the criminal, motor vehicle, and traffic laws of the Commonwealth; and issuing warrants of arrest. These officers have peace officer powers equivalent to those of sheriffs, constables, and police officers in their respective jurisdictions. 1948 Ky. Acts c.80, §6; K.R.S. 16.060. (See also, paragraphs 31.6-31.7, 32.2, 35-38, 39.1b-39.3, 42.1a-42.3, 47.)

39.1b In 1st-5th class cities, the State Police can exercise their power only if invited; or in hot pursuit, interviewing witnesses, searching for an offender who committed a crime outside a city's boundary, and in enforcing traffic regulations issued by the Commissioner of Highways on state highways within a city (if a city has a Department of Traffic Engineering or Traffic Bureau, then this is not permitted). In these classes of cities, the State Police may exercise their powers on state owned property; and the State Police may exercise this power by order of the Governor in case of emergencies. Requests for State Police must be approved by the Commissioner of Public Safety. 1950 Ky. Acts c.94; 1948 Ky. Acts c.80, §12; K.R.S. 16.120. (See also, paragraphs 31.6-31.7, 32.2, 47.8.)

39.2 The Department shall cooperate with other state agencies and with political subdivisions to enforce the laws of the Commonwealth. 1948 Ky. Acts c.80, §13; K.R.S. 16.130. (See also, paragraphs 31-38, 39.1a-b, 39.3, 40.1a, 41, 42, 47.)

39.3 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 39.1a-39.2.)

40. Area Planning Commissions

40.1a Area Planning Commissions must approve construction of public projects. 1960 Ky. Acts c.248, §8; K.R.S. 147.680. (See also, paragraphs 35.4a-f, 36.3a, 39.2, 40.1b.)

40.1b Penalty--a fine of not less than $100 nor more than $500. 1960 Ky. Acts c.248, §8; K.R.S. 147.990. (See also, paragraph 40.1a.)

41. Air Pollution Control Districts

41.1a A District Board may fix reasonable limits on contaminants by enacting regulations. Emission of air contaminants is prohibited. Emission standards must meet shade #2 of the Ringlemann Chart. 1954 Ky. Acts c.173, §1; 1952 Ky. Acts c.53, §36; K.R.S. 77.155. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1b-1.)

41.1b Air pollution control officers have right of entry to inspect premises of actual or suspected air polluters.

Interference is unlawful. 1952 Ky. Acts c.53, §38; K.R.S. 77.165. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a, 41.1c-1.)

41.1c Violations of K.R.S. 77.150 to 77.175 (air pollution control laws) may be enjoined. 1952 Ky. Acts c.53, §42; K.R.S. 77.175. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 39.2, 41.1a-b, 41.1d-1, 42.1a-42.3, 43,46, 47.)

41.1d Local air pollution control boards may enact rules and regulations to enforce chapter 77 of K.R.S. 1952 Ky. Acts c.53, §41; K.R.S. 77.180. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-c, 41.1e-1, III 1.7.)

41.1e Local air pollution control boards may enact orders, rules, and regulations for the reduction of air pollution. 1952 Ky. Acts c.53, §46; K.R.S. 77.190. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-d. 41.1f-1, III 1.7.)

41.1f Local air pollution control boards may require permits for the construction and operation of equipment which contributes to air pollution. 1952 Ky. Acts c.53, §48; K.R.S. 77.195. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-e, 41.1g-1.)

41.1g Local air pollution control boards may suspend a permit for failure to furnish information concerning the installation of equipment which contributes to air pollution. 1952 Ky. Acts c.53, §57; K.R.S. 77.220. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-f, 41.1h-1.)

41.1h It is unlawful for any person to violate the air pollution control laws of chapter 77 of K.R.S. 1952 Ky. Acts c.53, §61; K.R.S. 77.235. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-g, 41.1i-1.)

41.1i Violations of K.R.S. 77.235 (41.1h) may be enjoined by the local air pollution control board. 1952 Ky. Acts c.53, §62; K.R.S. 77.240. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 39.2, 41.1a-h, 41.1j-1, 42.1a, 42.3, 43, 46, 47.)

41.1j Variances form the air pollution control laws of chapter 77 of K.R.S., and the local board's regulations may be granted by the local air pollution control board. 1952 Ky. Acts c.53, §63; K.R.S. 77.245. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-i, 41.1k-1.)

41.1k Variances granted by the local air pollution control board may be granted if enforcement of air pollution standards would cause undue hardship without significant public benefit. 1952 Ky. Acts c.53, §67; K.R.S. 77.260. (See also, paragraphs 34.1a-34.2b, 35.7a-g, 41.1a-j, 41.11.)

41.11 Penalty for 41.1a, 41.1c-k--a fine of not more than $500 nor less than $10. Penalty for 41.1b--a fine of not more than $500 nor less than $10. Each day violation continues constitutes a separate offense. 1954 Ky. Acts c.173, §3; 1952 Ky. Acts c.53, §43 & 61(2); K.R.S. 77.990. (See also, paragraphs 41.1a-k.)

42. Local Enforcement Generally

42.1a The sheriff may command the power of the county to aid him in the execution of his duties as a peace officer. 1962 Ky. Acts c.234, §16; K.R.S. 70.060. (See also, paragraphs 31-34, 39.2, 41.1a-1, 42.1b-42.4, 47.)

42.1b Each sheriff shall execute and make due return of all notices and processes which come to him and may be executed lawfully by him. K.R.S. 70.070. (See also, paragraphs 31-34, 39.2, 41.1a-1, 42.1a, 42.2-42.4, 47.)

42.2 Constables may execute processes and make due return on them throughout the county as well as in the constable's district. K.R.S. 70.350. (See also, paragraphs 42.1a-b, 42.4.)

42.3 County Police are to enforce all laws and have the same enforcement powers and duties as sheriffs. 1942 Ky. Acts c.115, §1; K.R.S. 70.570. (See also, paragraphs 42.1a-b, 42.4.)

42.4 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 42.1a-42.3.)

42.5a County Attorneys shall prosecute violations of forestry laws, chapter 149 of K.R.S. K.R.S. 149.070. (See also, paragraphs 32.1a-e, 38.1a-e, 42.5b.)

42.5b County Attorneys are to prosecute abatement proceedings relating to the injuring of forests. 1964 Ky. Acts. c.158, §11; K.R.S. 149.410. (See also, paragraphs 32.1a-e, 38.1a-e, 39.2, 42.1a-42.3, 47.)

42.5c County Attorneys shall enforce fish and wildlife laws and regulations. 1952 Ky. Acts c.200, §20; 1948 Ky. Acts c.78; 1942 Ky. Acts c.68; K.R.S. 150.130. (See also, paragraphs 31.1a-b, 37.1a-d, 39.2, 42.1a-42.3, 47.)

42.6 All officers of Kentucky are required to enforce Chapter 151 of K.R.S. (Geology and Water Resources). 1966 Ky. Acts c.23, §36; K.R.S. 151.320. (See also, paragraphs 31.2a-b, 38.2a-b, 39.2, 42.1a-42.3, 47.)

42.7 Garbage disposal districts shall enact whatever rules and regulations regarding solid waste disposal are necessary to insure public health. 1966 Ky. Acts c.66, §7; K.R.S. 109.120. (See also, paragraphs 39.2, 42.1a-42.3, 43, 46, 47.)

42.8 The attorney for a county board of drainage commission shall prosecute violations of drainage laws. K.R.S. 267.410. (See also, paragraphs 31.5a-b, 39.2, 42.1a-42.3, 47.)

43. Local Health Units (County, City, or District)

43.1 County and City Attorneys within their respective jurisdictions are to prosecute all violations of the penal provisions of Kentucky public health laws. 1954 Ky. Acts c.157, §18; K.R.S. 211.240. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34, 35.3, 43.2-43.5.)

43.2 Local health units shall abate all nuisances detrimental to health. K.R.S. 212.210. (See also, paragraphs 35.2a, 35.4e, 35.7d, 41.1c, 41.1i, 43.1, 43.3-43.5, 44-46.)

43.3 City health boards shall have the same powers vested to county health boards by chapter 212 of K.R.S. K.R.S. 212.220. (See also, paragraphs 43.1-43.2, 43.4-43.5, 44, 45.)

43.4 Local health units shall enforce state and local health laws and regulations, and abate nuisances to health. 1958 Ky. Acts c.96, §4; 1954 Ky. Acts c.209, §5; K.R.S. 212.245. (See also, paragraphs 35.2a, 35.4e, 35.7d, 41.1c, 41.1i, 43.1-43.3, 43.5, 44-46.)

43.5 Local health unit officers shall enforce state and local health laws and regulations. 1958 Ky. Acts c.96, §5; K.R.S. 212.260. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34, 35.3, 43.1-43.4.)

44. City-County Health Board in Counties Containing a First Class City

44.1a The Board enforces state and local health laws and regulations. 1942 Ky. Acts c.41, §2; K.R.S. 212.370. (See also, paragraphs 43.1, 43.3, 43.5, 44.1b.)

44.1b The Board can abate nuisances to public health. 1942 Ky. Acts c.41, §20; K.R.S. 212.620. (See also, paragraphs 43.2-43.4, 44.1a.)

45. City-County Health Board in Counties Containing a Second Class City

45.1a The Board's powers are the same as county health boards' powers to enforce state and local health laws and regulations. 1944 Ky. Acts c.122, §4; K.R.S. 212.670. (See also, paragraphs 43, 45.1b.)

45.1b The Health Officer's powers are the same as county health officers to enforce state and local health laws and regulations. 1944 Ky. Acts c.122, §5; K.R.S. 212.680. (See also, paragraphs 43, 45.1a.)

46. City Powers Regarding Solid Waste Disposal Practices (Final Disposition)

46.1 1st Class--Department of Building Inspection can make and enforce health regulations. 1954 Ky. Acts c.162, §3; K.R.S. 83.172. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34, 35.2a, 39.2, 43.2, 47.1-47.2c.)

46.2a 2nd Class--city can enact ordinances protecting public health. K.R.S. 84.210. (See also, paragraphs 46.2b-c, 47.1, 47.3-47.5.)

46.2b 2nd class--city can abate nuisances to health. K.R.S. 84.220. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34, 35.2a, 39.2, 42.1a-42.3, 46.2a, 46.2c, 47.1, 47.3-47.5.)

46.2c 2nd class--city can abate smoke. K.R.S. 84.240. (See also, paragraphs 35.7d, 39.2, 41.1c, 41.1i, 42.1a-42.3, 46.2a-b, 47.1, 47.3-47.5.)

46.3a 3rd class--common council can enact ordinances to protect the general health of the public. K.R.S. 85.120. (See also, paragraphs 46.3b, 47.1, 47.3,47.4, 47.6a-b.)

46.3b 3rd class--common council can abate nuisances. K.R.S. 85.180. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34, 35.2a, 39.2, 42.1a-42.3, 43.2, 46.3a, 47.1, 47.3, 47.4, 47.6a-b.)

46.4a 4th class--city council can enact ordinances for public and general health. K.R.S. 86.140. (See also, paragraphs 46.4b, 47.1, 47.3, 47.7.)

46.4b 4th class--city council can abate nuisances. K.R.S. 86.150. (See also, paragraphs 31.4a-b, 33.1a-33.3b, 34, 35.2a, 39.2, 42.1a-42.3, 43.2, 46.4a, 47.1, 47.3, 47.7.)

46.5 5th class--city council can enact sanitary regulations. K.R.S. 87.070. (See also, paragraphs 47.1, 47.3, 47.7.)

46.6 6th class--Board of Trustees can enact sanitary regulations. K.R.S. 88.080. (See also, paragraphs 47.1, 47.3, 47.8.)

47. City Police Power

47.1 A peace officer may make an arrest in obedience to a warrant, or without a warrant, when a felony or misdemeanor is committed in his presence or when he has reasonable grounds to believe that the person being arrested has committed a felony. 1962 Ky. Acts c.234, §31; K.R.S. 431.005. (See also, paragraphs 47.2a-47.8.)

47.2a 1st Class--the Department of Public Safety enforces the lawful ordinances of the city. K.R.S. 83.170. (See also, paragraphs 39.2, 42.1a-42.3, 47.1, 47.2b-c.)

47.2b 1st Class--the police possess all the common law and statutory powers of constables and sheriffs. 1952 Ky. Acts c.56, §5; K.R.S. 95.150. (See also, paragraphs 39.2, 42.1a-42.3, 47.1, 47.2a, 47.2c.)

47.2c 1st Class--if special police are created and no separate rules are provided for them, they shall have the powers and duties of regular police. 1952 Ky. Acts c.56, §14; K.R.S. 95.160. (See also, paragraphs 47.1, 47.2a-b.)

47.3 2nd-6th Class--if auxiliary police are created, the legislative body of the city shall prescribe their duties and powers. 1968 Ky. Acts c.135; K.R.S. 95.445. (See also, paragraphs 47.1, 47.4-47.8.)

47.4 2nd-3rd Class--the legislative body of a 2nd or 3rd class city may prescribe the duties of police department members. 1956 Ky. Acts c.246, §12; K.R.S. 95.430. (See also, paragraphs 39.2, 47.1, 47.3, 47.5-47.6b.)

47.5 2nd Class--all police officers are conservators of the peace and shall have and exercise the powers for conservators of the peace as prescribed by statute or ordinance. 1968 Ky. Acts c.132, §59; K.R.S. 84.340. (See also, paragraphs 39.2, 47.1, 47.3, 47.4.)

47.6a 3rd Class--the common council may prescribe duties and powers of police officers. K.R.S. 85.280.
(See also, paragraphs 39.2, 47.1, 47.3, 47.4, 47.6b.)

47.6b 3rd Class--the marshall is a peace officer of the city and the state. He is authorized to execute processes issued by the city. K.R.S. 95.680. (See also, paragraphs 39.2, 47.1, 47.3, 47.4, 47.6a.)

47.7 4th-5th Class--police officers may execute process and make arrests for offenses against municipal ordinances or regulations, and shall have the power of arrest for offenses against the state as does the sheriff. 1946 Ky. Acts c.148; K.R.S. 95.740. (See also, paragraphs 39.2, 47.1, 47.3.)

47.8 6th Class--the marshall controls the police, has the sheriff's power for resistance to law or authority, may execute process, and prosecutes violations of city ordinances. 1958 Ky. Acts H.193; K.R.S. 95.800. (See also, paragraphs 39.1b-39.2, 47.1, 47.3.)

SPECIAL WASTE

Covered herein are wastes which are inherently unique, such as radioactive solids.

48. Radioactive Solid Waste

48.1a The following Departments are authorized to adopt necessary rules and regulations to meet radioactive safety needs of the Commonwealth:

- Health, for original and final disposal,
- Motor Transportation, for collection and transfer via highway vehicles,
- Aeronautics, for collection and transfer by air,
- Mines and Minerals, for subterranean disposal.

1958 Ky. Acts c.146, §3; K.R.S. 152.120. (See also, paragraphs 48.1b-3. III 5.)

48.1b A license to handle radioactive materials is required. It may be issued by the following Departments for the purposes indicated:

- Health, for original and final disposal,
- Motor Transportation, for collection and transfer via highway vehicles,
- Aeronautics, for collection and transfer by air,

- Mines and Minerals, for subterranean disposal.

These Departments also may enact regulations regarding the handling of radioactive materials. 1960 Ky. Acts c.115, §6; K.R.S. 152.125. (See also, paragraphs 48.1a, 48.1c-e, III 5.)

48.1c Rules and regulations regarding radioactive materials are approved by the Governor. 1966 Ky. Acts c.220, §1; 1960 Ky. Acts c.115, §2; 1958 Ky. Acts c.146, §4; K.R.S. 152.130. (See also, paragraphs 48.1a-b, 48.1d-e.)

48.1d Kentucky Science and Technology Advisory Council advises the Governor as to general regulations regarding radioactive materials. 1966 Ky. Acts c.220, §4; 1958 Ky. Acts c.146, §8; K.R.S. 152.170. (See also, paragraphs 48.1a-c, 48.1e.)

48.1e Penalty--a fine of not less than $100 nor more than six months, or both. Each day violation continues constitutes a separate offense. 1960 Ky. Acts c.115, §5; 1950 Ky. Acts c.146, §10; K.R.S. 152.190. (See also, paragraphs 48.1a-d.)

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II. SOLID WASTE SERVICES AUTHORITY

INTRODUCTION

Solid waste services can be provided by political subdivisions in the following ways:

- Direct governmental program
- Contract with a nonprofit corporation, firm, or person
- Agreement with other political subdivisions
- Formation of a special district

These services can be financed by issuing bonds, charging fees, or levying taxes.

To present the authority for organizing services, the following categories are used:

- Procedures--statutes relating to direct governmental programs, interlocal governmental agreements, special districts, and nonprofit corporations
- Finances--statutes relating to the issuance of bonds and the revenue sources for solid waste service
- Acquisition of Property--statutes relating to the conveyance of property and the right of eminent domain.

Because the statutes relating to political subdivision financing and acquisition of property are found throughout K.R.S., these last two categories are organized for clarity.

DIRECTIONS FOR USE

CODIFICATION FORMAT

Ⓐ 1.1 Ⓑ Proper solid waste disposal is a proper concern of the Commonwealth. Ⓒ 1968 Ky. Acts c.192, §7; Ⓓ K.R.S. 211.703.

Ⓔ (See also, paragraphs 2-5, 7, 9-12.)

FORMAT EXPLANATION

Ⓐ Paragraph number assigned to this statute for this codification

Ⓑ Application of the statute

Ⓒ Date enacted*

Ⓓ Statute number

Ⓔ Other statutes and regulations in this codification to which this statute relates. Cross references permit easy location.

*When two or more references to Ky. Acts appear before the K.R.S. number, it indicates that the General Assembly has amended the statute several times.

PROCEDURES

DIRECT GOVERNMENTAL PROGRAMS

1. Direct Programs Generally

1.1 Proper solid waste disposal is a proper concern of the Commonwealth. 1968 Ky. Acts c.192, §7; K.R.S. 211.703. (See also, paragraphs 2-5, 7, 9-12.)

1.2 The Department of Health shall represent the Commonwealth regarding all aspects of the Federal Solid Waste Disposal Act (42 U.S.C. §§3251-3259). 1968 Ky. Acts c.192, §4; K.R.S. 211.723. (See also, paragraphs 2-5, 7, 9-12.)

1.3a Area Planning Commission must approve location and construction of a public project within its boundaries. 1960 Ky. Acts c.248, §8; K.R.S. 147.680. (See also, paragraphs 1.3b-c, 5, 7, 9-12.)

1.3b Appeal may be made from Area Planning Commission's ruling. 1960 Ky. Acts c.248, §11; K.R.S. 147.110. (See also, paragraph 1.3a.)

1.3c Penalty for 1.3a--a fine imposed of not less than $100 nor more than $500. 1960 Ky. Acts c.248, §8; K.R.S. 147.680. (See also, paragraphs 1.3a, 2-5, 7, 9-12.)

2. Counties

2.1 Fiscal Court's enumerated powers in chapter 67 of K.R.S. do not list the power to conduct solid waste services; however, see note below. 1966 Ky. Acts c.191; 1956 Ky. Acts c.248; 1946 Ky. Acts c.21; K.R.S. 67.080. (See also, paragraphs 1.1, 1.2, 2.2a-2.3c, 5-7, 13.1a, 22.1c-e.) Note: Political subdivisions do not have inherent power emanating from their existence as does the Commonwealth. Their powers are only those given by the General Assembly, and these grants of power usually are construed strictly by the courts. There is no law which specifically authorizes a fiscal court to conduct solid waste services. This is important, for a fiscal court cannot contract for the performance of a function which it cannot perform itself. However, the Court of Appeals in Fayette County Fiscal Court v. Fayette County, 314 Ky. 595, 236 S.W.2d 455 (1950) upheld the Fayette County Fiscal Court's issuance of bonds for the purchase of equipment and land for a county incinerator. In this case, the Court of Appeals construed the meaning of "public project" to permit such action by a fiscal court. The statute in which the term appeared, 1946 Ky. Acts c.126, §1, is a definitional statute for K.R.S. 58.010 through 58.140, and is not a statute granting a power to perform a service. On the basis of this decision, a fiscal court apparently can conduct solid waste services, and, consequently, can contract for their performance. Compare Chrisman v. Cumberland Coach Lines, 249 S.W.2d 782, 784 (Ky. 1952). The Court upheld this definition of "public project" in City of Bowling Green v. Board of Education, 443 S.W.2d 243 (Ky. 1969). (See note for paragraph 13.1a.)

2.2a Fiscal Court can purchase land and buildings it needs for county purposes. 1946 Ky. Acts c.101; K.R.S. 68.125. (See also, paragraphs 2.2b-2.3c, 30.1c-e.)

2.2b Fiscal Court can use condemnation for county purposes. 1946 Ky. Acts c.94; K.R.S. 67.085. (See also, paragraphs 2.2a, 2.2c-2.3c, 36.1a-b, 37.1.)

2.2c Fiscal Court may acquire county buildings, land and equipment for buildings. 1946 Ky. Acts c.169, §1; K.R.S. 103.290. (See also, paragraphs 2.2a-b, 2.2d-2.3c, 30.1a-e.)

2.2d County surveyor is to survey land and perform other engineering duties for the county. K.R.S. 73.040. (See also, paragraphs 2.2a-c, 2.3a-c, 30.1a-e.)

2.3a Fiscal Court shall establish a County Buildings Commission for the acquisition, construction, remodeling, or improvement of buildings of any type which a county legally can have. 1962 Ky. Acts c.224(1); K.R.S. 67.450. (See also, paragraphs 2.2a-c, 2.3b-c, 13.1c-d, 22.1b-c.)

2.3b County Buildings Commission has authority to construct county buildings under the provisions of K.R.S. 67.450 to 67.550. 1962 Ky. Acts c.224(7); K.R.S. 67.480. (See also, paragraphs 2.2a-c, 2.3a, 2.3c, 13.1c-d, 22.1b-c.)

2.3c County Buildings Commission can issue revenue bonds to finance county buildings. 1962 Ky. Acts c.224(9); K.R.S. 67.490. (See also, paragraphs 2.2a-c, 2.3a-b, 13.1c-d, 22.1b-c.)

3. Cities Generally

Note: Even though K.R.S. 94.280 to 94.287 (4.1a-4.4) empower cities to conduct solid waste services, the following general statutes are sufficient authority to allow cities to conduct or contract for these services; for solid waste disposal is a proper municipal function.

3.1a 1st Class--city can legislate for municipal purposes (includes right of eminent domain). K.R.S. 83.010 (See also, paragraphs 1.1, 1.2, 3.1b, 3.7, 4.2a-4.3c, 5-7, 26.1a, 26.1c, 31.2, 38.2a.)

3.1b 1st Class--Department of Sanitation has exclusive control of public and private solid waste disposal. 1968 Ky. Acts c.152, §58; K.R.S. 83.171. (See also, paragraphs 1.1, 1.2, 3.1a, 3.7, 4.1a, 4.2a-4.3c, 5-7, 32.1a, 32.1c.)

3.2a 2nd Class--city can legislate and acquire land for municipal purposes. K.R.S. 84.010. (See also, paragraphs 1.1, 1.2, 3.2b, 3.7, 4.1b, 4.2a-4.3c, 5-7, 31.3.)

3.2b 2nd Class--general council can enact ordinances for municipal purposes and exercise the right of eminent domain. K.R.S. 84.150. (See also, paragraphs 1.1, 1.2, 3.2a, 3.7, 4.2a-4.3c, 5-7, 26.1b-c, 38.3.)

3.3a 3rd Class--common council can legislate for municipal purposes (includes right of eminent domain). K.R.S. 85.170 (See also, paragraphs 1.1, 1.2, 3.3b, 3.7, 4.2a-4.3c, 5-7, 26.1b-c, 38.4.)

3.3b 3rd Class--common council can acquire land and erect buildings for municipal purposes. K.R.S. 85.140. (See also, paragraphs 1.1, 1.2, 3.3a, 3.7, 4.1b, 4.2a-4.3c, 5-7, 31.4.)

3.4a 4th Class--city can acquire property and contract for municipal purposes. 1962 Ky. Acts c.17, §1; K.R.S. 86.010. (See also, paragraphs 1.1, 1.2, 3.4b, 3.7, 4.1b, 4.2a-4.3c, 5-7, 31.5.)

3.4b 4th Class--city council can legislate for municipal purposes (includes right of eminent domain). K.R.S. 86.110. (See also, paragraphs 1.1, 1.2, 3.4a, 3.7, 4.2a-4.3c, 5-7, 26.1b-c, 38.5.)

3.5a 5th Class--city council can legislate for municipal purposes. K.R.S. 87.070. (See also, paragraphs 1.1, 1.2, 3.5b-c, 3.7, 4.2a-4.3c, 5-7, 26.1b-c.)

3.5b 5th Class--city can acquire property for municipal purposes. K.R.S. 87.080. (See also, paragraphs 1.1, 1.2, 3.5a, 3.5c, 3.7, 4.1b, 4.2a-4.3c, 5-7, 31.6.)

3.5c 5th Class--city has the power to condemn property. K.R.S. 87.090. (See also, paragraphs 1.1, 1.2, 3.5a-b, 3.7, 5-7, 38.6.)

3.6a 6th Class--Board of Trustees may legislate for municipal purposes. K.R.S. 88.080. (See also, paragraphs 1.1, 1.2, 3.6b-c, 3.7, 4.2a-4.3c, 5-7, 26.1b-c, 31.7.)

3.6b 6th Class--Board of Trustees can acquire property for municipal pruposes. K.R.S. 88.090. (See also, paragraphs 1.1, 1.2, 3.6a, 3.6c, 3.7, 4.1b, 4.2a-4.3c, 5-7, 31.7.)

3.6c 6th Class--city has the power to condemn property. K.R.S. 88.100. (See also, paragraphs 1.1, 1.2, 3.6a-b, 3.7, 5-7, 38.7.)

3.7 A city has the power to make public improvements. 1966 Ky. Acts c.239, §81; 1950 Ky. Acts c.165, §3; K.R.S. 94.292. (See also, paragraphs 1.1, 1.2, 3.1a-3.6c, 4.1a-b, 4.2a-4.3c, 26.1a-c.)

4. Garbage Disposal in Cities

4.1a 1st Class--city may acquire suitable land for dumping garbage and shall keep such land in repair. K.R.S. 93.100. (See also, paragraphs 1.1, 1.2, 3.1b, 31.2, 31.8a-b.)

4.1b 2nd-6th Class--cities may acquire suitable lands for garbage dumps. K.R.S. 94.280. (See also, paragraphs 1.1, 1.2, 3.2a, 3.3b, 3.4a, 3.5b, 3.6b, 31.3-31.6, 31.8c-d.)

4.2a Definitions for Garbage Disposal Act of 1946 (K.R.S. 94.281 to 94.287.). 1946 Ky. Acts c.69, §1; K.R.S. 94.281. (See also, paragraphs 1.1, 1.2, 3.1a-3.7, 4.2b-4.3c.)

Note: K.R.S. 93.275, Garbage Disposal for First Class Cities, does not exist. K.R.S. 94.281 to 94.287 applies to all cities.

4.2b A city may acquire and operate a garbage disposal system. Right of eminent domain can be exercised, and an existing system may be acquired from a company having a franchise. 1946 Ky. Acts c.69, §2; K.R.S. 94.282. (See also, paragraphs 4.2a, 4.2c-4.3c, 32.1c, 38.8.)

4.2c If revenue bonds are to be issued, election on this is necessary if minimum percentage of city residents petition the city. Estimate of system's cost must be prepared. 1966 Ky. Acts c.239, §80; K.R.S. 94.283. (See also, paragraphs 4.2a-b, 4.2d-4.3c, 17.1, 17.2, 26.2.)

4.2d Revenue bonds may be issued for a garbage disposal system. 1946 Ky. Acts c.69, §4; K.R.S. 94.284. (See also, paragraph 4.2c.)

4.3a A city may charge fees for garbage disposal services and make all necessary rules and regulations for the garbage disposal system. 1946 Ky. Acts c.69, §4; K.R.S. 94.285. (See also, paragraphs 4.2a-d, 4.3b-c, 26.2.)

4.3b Operation and management of a garbage disposal system shall be by a garbage disposal commission. 1946 Ky. Acts c.69, §5; K.R.S. 94.286. (See also, paragraphs 4.2a-4.3a, 4.3c.)

4.3c Garbage Disposal Act of 1946 (K.R.S. 94.281-94.287) is an alternate method to conducting solid waste services under other statutory authority; 1946 Ky. Acts c.69, §6; K.R.S. 94.287. (See also, paragraphs 3.1a-3.7, 4.2a-4.3b.)

INTERLOCAL GOVERNMENTAL COOPERATION

5. Interlocal Cooperation Act

5.1a K.R.S. 65.210 to 65.300 may be cited as the Interlocal Cooperation Act of 1962. 1962 Ky. Acts c.216, §1; K.R.S. 65.210. (See also, paragraphs 1-3, 5.1b-5.3b, 6.)

5.1b The purpose of this Act is to allow cooperation of local units of government in performing public services. 1962 Ky. Acts c.216, §2; K.R.S. 65.220. (See also, paragraphs 5.1a, 5.1c-5.3b.)

5.1c Definition of terms for the Act: public agency means any county, city, or special district. 1964 Ky. Acts c.114, §1; 1962 Ky. Acts c.216, §3; K.R.S. 65.230. (See also, paragraphs 5.1a-b, 5.2a-5.3b.)

5.2a State agencies jointly may exercise power with these public agencies. 1964 Ky. Acts c.114, §2; 1962 Ky. Acts c.216, §4; K.R.S. 65.240. (See also, paragraphs 1.1, 1.2, 5.1a-c, 5.2b-5.3b, 30.1a.)

5.2b Contents of the agreement include its duration, precise organization of any separate entity created by the agreement, purpose, financing, the methods to be employed for its termination, and other such matters necessary and proper. 1966 Ky. Acts c.255, §78; 1964 Ky. Acts c.144, §4; 1962 Ky. Acts c.216, §4; K.R.S. 65.250. (See also, paragraphs 5.1a-5.2a, 5.2c-5.3b.)

5.2c No agreement can eliminate any obligation imposed by law on a public agency. The agreement must be submitted to the Attorney General for approval. 1964 Ky. Acts c.114, §3; 1962 Ky. Acts c.216, §4; K.R.S. 65.260. (See also, paragraphs 5.1a-5.2b, 5.2d-5.3b, 9.1.)

5.2d Revenue bonds may be issued by the public agencies to perform any such agreement. 1962 Ky. Acts c.216, §5; K.R.S. 65.270. (See also, paragraphs 5.1a-5.2c, 5.2e-5.3b, 14.1, 23.1.)

5.2e Civil service laws are to apply to transferred employees if new status is covered by civil service laws. Transferred employees maintain pension rights. 1964 Ky. Acts c.114, §6; 1962 Ky. Acts c.216, §8; K.R.S. 65.280. (See also, paragraphs 5.1a-5.2d, 5.3a-b.)

5.3a Copies of agreement must be filed with the county clerk of the counties involved and with the Secretary of State. If agreement goes across state lines, then it has the status of an interstate compact (in which case Congress must approve it). 1964 Ky. Acts c.114, §6; 1962 Ky. Acts c.216, §8; K.R.S. 65.290. (See also, paragraphs 5.1a-5.2e, 5.3b, 9.1, 10.1g, 11.)

5.3b If the agreement involves a state agency prerogative, then the state agency as well as the Attorney General must approve agreement. 1962 Ky. Acts c.216, §9; K.R.S. 65.300. (See also, paragraphs 5.1a-5.3a, 30.1a.)

6. Interlocal Compacts for Purchasing and Merit Systems

6.1a Intercity, intercounty, or city-county compacts for purchasing and merit systems are authorized. 1942 Ky. Acts c.43, §1; K.R.S. 79.010. (See also, paragraphs 1-3, 5, 6.1b-d.)

6.1b Political subdivisions within a county may contract together and/or with their fiscal court to perform joint governmental services in a county. 1964 Ky. Acts c.144, §1; K.R.S. 79.110. (See also, paragraphs 5, 6.1a, 6.1c-d, 9.1.)

6.1c City or county officers, agents, and employees are authorized to perform services under compacts authorized by K.R.S.

79.110 to 79.180. 1954 Ky. Acts c.34, §3; K.R.S. 79.130. (See also, paragraphs 5, 6.1a-b, 6.1d.)

6.1d Other political subdivisions within a county may be included in these contracts authorized by K.R.S. 79.110 to 79.180. 1964 Ky. Acts c.144, §3; 1954 Ky. Acts c.34, §4; K.R.S. 79.140. (See also, paragraphs 5, 6.1a-c, 9.1.)

7. Inducing Location of Governmental Projects

7.1a Definitions for this act (K.R.S. 82.105-82.180): Government projects mean any undertaking by a governmental agency. Governmental agency includes the Commonwealth, the United States, or any division, department, agency or instrumentality of either of them. 1962 Ky. Acts c.178, §1; K.R.S. 82.105. (See also, paragraphs 1, 3, 7.1b-g.)

7.1b Cities can acquire land for governmental projects. 1962 Ky. Acts c.178, §2; K.R.S. 82.110. (See also, paragraphs 3, 4.1a-b, 31.1, 38.1.)

7.1c Cities are authorized to enter into contracts of inducements. 1962 Ky. Acts c.178, §2; K.R.S. 82.115. (See also, paragraphs 3, 5, 6, 7.1a-b, 7.1d-g.)

7.1d Municipal inducements constitute lawful public purposes and uses. 1962 Ky. Acts c.178, §3; K.R.S. 82.125. (See also, paragraphs 7.1a-c, 7.1e-g.)

7.1e Cities may issue general obligation bonds for inducements. 1962 Ky. Acts c.178, §4; K.R.S. 82.130. (See also, paragraphs 7.1a-d, 7.1f-g, 18.1a, 27.1a.)

7.1f Revenue bonds also are authorized for inducements. 1962 Ky. Acts c.178, §5; K.R.S. 82.135. (See also, paragraphs 7.1a-e, 7.1g, 18.1b, 27.1b-c.)

7.1g Cites may exercise power of eminent domain for government projects secured by inducements. 1962 Ky. Acts c.178, §8; K.R.S. 82.180. (See also, paragraphs 3, 7.1a-f, 38.1.)

8. Special Districts

8.1a Local governmental units can be part of agreement forming Urban Services District. 1960 Ky. Acts c.150, §1; K.R.S. 108.010. (See also, paragraphs 2, 3, 5, 6, 8.1b, 10.)

8.1b Territory of such a District can be expanded to include a city or another district and can cover territory in two or more counties. 1960 Ky. Acts c.150, §9; K.R.S. 108.070. (See also, paragraphs 2, 3, 5, 6, 8.1a, 10.)

8.2a Political subdivisions can contract for the formation of a Garbage Disposal District. 1966 Ky. Acts c.66, §3; K.R.S. 109.020. (See also, paragraphs 2, 3, 5, 6, 8.2b, 11.)

8.2b Such Districts can contract with local governmental units for services outside District's boundaries. 1966 Ky. Acts c.66, §13; K.R.S. 109.130. (See also, paragraphs 2, 3, 5, 6, 3.2a, 11.)

SPECIAL DISTRICTS

9. General Requirement

9.1 Notice to county clerk is required in the establishment of a special district within a county. Existing special districts also must give notice to the county clerk within 30 days after 16 June 1966. 1966 Ky. Acts c.128; K.R.S. 65.005. (See also, paragraphs 5.1c, 10.1g, 11.)

10. Urban Services District

10.1a Local areas and local governmental units are authorized to create such District. These Districts may issue revenue bonds, acquire property, and exercise the right of eminent domain. 1960 Ky. Acts, c.150, §1; K.R.S. 108.010. (See also, paragraphs 1-3, 5, 6, 10.1b-g, 19.1, 33.1, 39.1.)

10.1b District's powers include provisions for garbage and trash collection and disposal. These Districts may collect fees and levy assessments for performing services and for retiring indebtedness. 1960 Ky. Acts c.150, §2; K.R.S. 108.020. (See also, paragraphs 1-3, 10.1a, 10.1c-g, 28.1.)

10.1c Corporate and governmental power shall be vested in a District Council composed of five members and a director, who is the chief executive officer. Council may establish the necessary organization to carry out District's functions. Council may enact all necessary rules and regulations. 1964 Ky. Acts c.113, §1; K.R.S. 108.030. (See also, paragraphs 10.1a-b, 10.1d-g.)

10.1d The District director shall be appointed by the District Council. The director is chief executive officer of the District, and has the necessary powers to administer the District. 1968 Ky. Acts c.152, §90; 1964 Ky. Acts c.113, §2; 1960 Ky. Acts c.150, §7; K.R.S. 108.040. (See also, paragraphs 10.1a-c, 10.1e-g.)

10.1e Procedures for establishment of a District: Petition of a minimum number of residents must be made and an election must be held. Once properly established, the Governor shall appoint five qualified persons to serve on the council. 1966 Ky. Acts c.239, §123; 1964 Ky. Acts c.113, §3; 1960

Ky. Acts c.150, §6; K.R.S. 108.050. (See also, paragraphs 10.1a-d, 10.1f-g.)

10.1f Employees of the District shall be covered by civil service plan for first class cities as outlined in K.R.S. 90.110. 1960 Ky. Acts c.150, §8; K.R.S. 108.060. (See also, paragraphs 10.1a-e, 10.1g.)

10.1g District can expand territory to include unincorporated areas of a county, a city, or another such district. A District can cover territory in two or more counties. 1960 Ky. Acts c.150, §9; K.R.S. 108.070. (See also, paragraphs 5.1c, 9.1, 10.1a-b.)

11. Garbage Disposal District

11.1 Note: This Act duplicates much of what is covered in the Urban Services District Act of 1960; (10.1a-g), and yet the Urban Services District Act was not repealed. The noticeable difference between these two acts is the expressed controls which the Department of Health has over the Garbage Disposal District but does not have over the Urban Services District. (See paragraphs 11.2b-c, 11.3b.)

11.1a Definition of terms for the Garbage Disposal Act of 1966: "Garbage" and "refuse" together mean "solid waste" in its usual sense. 1966 Ky. Acts c.66, §1; K.R.S. 109.010. (See also, paragraphs 1, 2, 5, 6, 11.1b-11.4g.)

11.1b After the political subdivisions have declared, by ordinance, the need for such a District, they shall establish the District by contract. The contract shall set forth the extent to which the participants shall render and receive services from the District, whether operations will be public or by a franchised private party, financing of the District, etc. The contract also must provide terms for its modification and for the District's expansion. 1966 Ky. Acts c.66, §3; K.R.S. 109.020. (See also, paragraphs 5, 6, 11.1a, 11.1c-11.4g.)

Note: Even when strictly construed, as a local government's power usually is, a statutory right of a political subdivision to form or modify a contract includes the right to dissolve the contract, assuming vested interests are protected. See O.A.G. 66-468 (Ky. 1966). In view of the liberal construction of political subdivision powers given by the Court of Appeals in Fayette County Fiscal Court v. Fayette County, 314 Ky. 595, 236 S.W.2d 455 (1950); Chrisman v. Cumberland Coach Lines, 249 S.W.2d 782 (Ky. 1952); and City of Bowling Green v. Board of Education, 443 S.W.2d 243 (Ky. 1969), there is no reason to conclude that the Court of Appeals will not uphold expansion, contraction, or dissolution of a Garbage Disposal District under 1966 Ky. Acts c.66, §3; K.R.S. 109.020. (See note for paragraph 2.1.) O.A.G. 68-493 (Ky. 1968) and O.A.G. 69-131 (Ky. 1969), written by Assistant Attorney General Charles W. Runyon, hold to the contrary; yet O.A.G. 66-468 (Ky. 1966), which affirms the authority of a fiscal court to grant a franchise for solid waste services, follows the statutory construction used by the Court in the above cited cases.

11.1c A fiscal court of any county, fiscal courts of two or more counties, or any city individually, with other cities, or with one or more counties, may establish a District. A District may acquire an existing garbage disposal system. 1966 Ky. Acts c.66, §2; K.R.S. 109.030. (See also, paragraphs 2, 3, 5, 6, 11.1a-b, 11.1d-11.4g.)

11.1d The District shall be managed by a Board of Directors composed of: if within one county, three members; if within two counties, three members with two members from the county of the highest population; if within more than two counties, one member from each county exceeding the original two. If a county has first through third class cities, each city selects a member. If there are no first through third class cities in a county, then each city of the highest class appoints a member. 1966 Ky. Acts c.66, §4; K.R.S. 109.040. (See also, paragraphs 11.1a-c, 11.1e-11.4g.)

11.1e Directors must post bond and take oath upon assuming office. 1966 Ky. Acts c.66, §5; K.R.S. 109.050. (See also, paragraphs 11.1a-d, 11.1f-11.4g.)

11.1f Director's term of office is two years. 1966 Ky. Acts c.66, §6; K.R.S. 109.060. (See also, paragraphs 11.1a-e, 11.2a-11.4g.)

11.2a The Board shall prepare a plan for the District's organization and operation, and execute this plan. 1966 Ky. Acts c.66, §9; K.R.S. 109.070. (See also, paragraphs 11.1a-b, 11.2b-11.4g.)

11.2b The plan prepared by the District must be approved by the Department of Health. 1966 Ky. Acts, c.66, §10; K.R.S. 109.080. (See also, Note for paragraph 11, and paragraphs 11.1a-11.2a, 11.2c-11.4g.)

11.2c Collection and disposal after District is established, but before the Department of Health approves the plan, is prohibited. Doing so constitutes a nuisance and can be abated by the District, Department, or local health department. 1966 Ky. Acts c.66, §12; K.R.S. 109.090. (See also, Note for paragraph 11, and paragraphs 11.1a-11.2b, 11.3a-11.4g.)

11.3a The Board may hire an attorney, engineer, and other administrative personnel as may be needed. The Board can prescribe duties of District employees. 1966 Ky. Acts c.66, §8; K.R.S. 109.100. (See also, paragraphs 11.1a-11.2c, 11.3b-11.4g.)

11.3b The Chief Engineer of the Department of Health shall advise and assist all Districts. 1966 Ky. Acts c.66, §11; K.R.S. 109.110. (See also, Note for paragraph 11, and paragraphs 11.1a-11.3a, 11.4a-g.)

11.4a The District Board can enact all necessary rules and regulations to insure proper performance of the plan's operation in a manner which protects public health. 1966 Ky. Acts c.66, §7; K.R.S. 109.120. (See also, paragraphs 11.1a-11.3b, 11.4b-g.)

11.4b The Board may contract for service outside its District. 1966 Ky. Acts c.66, §13; K.R.S. 109.130. (See also, paragraphs 5, 6, 10, 11.1a-11.4a, 11.4c-g.)

11.4c All funds derived from services--taxes, service charges, sales, or other income--are to be used to defray expenses. 1966 Ky. c.66, §14; K.R.S. 109.140. (See also, paragraphs 11.1a-11.4b, 11.4d-g.)

11.4d The District may acquire such property as is necessary to accomplish its purposes. 1966 Ky. Acts c.66 §15; K.R.S. 109.150. (See also, paragraphs 11.1a-11.4c, 11.4e-g, 34.1b.)

11.4e The District Board may condemn real property to accomplish its purposes. 1966 Ky. Acts c.66, §16; K.R.S. 109.160. (See also, paragraphs 11.1a-11.4d, 11.4f-g, 20.1, 40.1.)

11.4f The District may issue revenue bonds. 1966 Ky. Acts c.66, §17; K.R.S. 109.170. (See also, paragraphs 11.1a-11.4e, 11.4g, 20.1, 29.1.)

11.4g The District may finance its operations by levying property taxes, collecting service charges and/or both. A service charge may be attached to utility bills. 1966 Ky. Acts c.66, §18; K.R.S. 109.180. (See also, paragraphs 11.1a-11.4f, 29.1.)

NONPROFIT CORPORATIONS

12. Nonprofit Corporations Generally

Note: Nonprofit corporations can be formed to perform solid waste services. This is a flexible method, for the scope of the corporation's powers can be modified more easily than that of a governmental unit. The statutes discussed are those which show this feature. For the complete scope of nonprofit corporations, consult K.R.S. 273.161 to 273.990.

12.1a Included in a nonprofit corporation's powers is the power to alter bylaws and cease corporate activities. 1968 Ky. Acts c.165, §5; K.R.S. 273.171. (See also, paragraphs 1-3, 5, 6, 12.1b-f.)

12.1b Defense of ultra vires (going beyond granted powers): An act by a nonprofit corporation is not invalid, nor is the nonprofit corporation invalid by reason of the fact that the act was beyond the corporation's capacity or power. 1968 Ky. Acts c.165, §6; K.R.S. 273.173. (See also, paragraphs 12.1a, 12.1c-f.)

12.1c A nonprofit corporation has the right to amend its articles of incorporation. 1968 Ky. Acts c.165, §32; K.R.S. 273.261. (See also, paragraphs 10.1c, 11.1b, 12.1a-b.)

12.1d Any two or more nonprofit corporations may merge. 1968 Ky. Acts c.165, §70; K.R.S. 273.277. (See also, paragraphs 10.1c, 10.1g, 11.1b, 12.1a-c, 12.1e-f.)

12.1e Any two or more nonprofit corporations may consolidate. 1968 Ky. Acts c.165, §38; K.R.S. 273.281. (See also, paragraphs 10.1c, 10.1g, 11.1b, 12.1a-d, 12.1f.)

12.1f A nonprofit corporation may dissolve voluntarily. 1968 Ky. Acts c.165, §44; K.R.S. 273.300. (See also, paragraphs 10.1c, 11.1b, 12.1a-e.)

FINANCES

Note: The purpose here is to present the statutes authorizing the issuing of bonds to finance public projects, and indicating the revenue sources available to defray the costs of these projects and to amortize their bonds. For complete discussion of all financial requirements, consult chapters 58, 66, 68, 91, 92, and 103 of K.R.S. Also consult chapters 65, 67, 79, 82-88, 93, 94, and 108 and 109 of K.R.S. as they relate to bonds and revenue sources.

BONDS

13. Public Projects Generally

13.1a Definition of terms for K.R.S. 58.010 to 38.140: Governmental agency includes any county, city, or special district (political subdivision legally can do.) 1968 Ky. Acts c.154, §1; K.R.S. 58.010. (See also, paragraphs 2, 3, 13.1b-d, 14-20.)

Note: "Public project" has been construed to permit a fiscal court to engage in solid waste services. (See Note for paragraph 2.1.)

13.1b A governmental agency has authority to issue revenue bonds to defray the cost of acquiring and developing public projects. 1948 Ky. Acts c.266; 1946 Ky. Acts c.126, §2; K.R.S. 58.020. (See also, paragraphs 2, 3, 13.1a, 13.1c-d, 14-20, 22.1a-b.)

13.1c A County Buildings Commission is authorized to issue revenue bonds to defray its costs of acquiring or constructing county buildings. 1962 Ky. Acts c.224(9); K.R.S. 67.490. (See also, paragraphs 2, 13.1d-e, 22.1f.)

13.1d A County Buildings Commission is authorized to issue general obligation bonds to defray its costs of acquiring or constructing county buildings. 1962 Ky. Acts c.224 (21); K.R.S. 67.550. (See also, paragraphs 2, 13.1c, 13.1e, 22.1c-e.)

13.1e A fiscal court can issue revenue bonds to finance the acquisition of county buildings, land, and equipment. 1946 Ky. Acts c.169, §2; K.R.S. 103.300. (See also, paragraphs 2, 13.1c-d, 22.1g.)

14. Interlocal Governmental Agreements

14.1 Revenue bonds may be issued to perform any interlocal agreement. Joining parties or the organization created by the agreement may issue these bonds. 1962 Ky. Acts c.216, §5; K.R.S. 65.270. (See also, paragraphs 5.2d, 23.1.)

15. County Public Improvements Finance Board (Counties of 300,000 Imposing License Fees)

15.1 The Board can issue revenue bonds in accordance with K.R.S. 58.010 to 58.140. 1966 Ky. Acts c.232, §7; K.R.S. 66.527. (See also, paragraphs 2, 13.1a-b, 24.1d.)

16. County Public Improvements Finance Commission (Counties of 50,000-299,999 Imposing License Fees)

16.1 The commission can issue revenue bonds in accordance with K.R.S. 58.010 to 58.140. 1966 Ky. Acts c.263, §9; K.R.S. 66.567. (See also, paragraphs 2, 13.1a-b, 25.1d.)

17. City Public Works

17.1 A city may issue revenue bonds for the acquisition, maintenance, or operation of garbage disposal system. 1966 Ky. Acts c.239, §80; 1946 Ky. Acts c.69, §3; K.R.S. 94.283 (See also, paragraphs 3, 4.2c, 17.2, 26.2.)

17.2 A city may issue general obligation bonds for public improvements. 1950 Ky. Acts c.165, §31; K.R.S. 94.323. (See also, paragraphs 3, 4.2c, 17.1.)

18. Inducing Location of Governmental Projects

18.1a A city may issue general obligation bonds for inducements. 1962 Ky. Acts c.178, §4; K.R.S. 82.130. (See also, paragraphs 3, 7.1e, 18.1b, 27.1a.)

18.1b A city also may issue revenue bonds for inducements. 1962 Ky. Acts c.178, §5; K.R.S. 82.135. (See also, paragraphs 3, 7.1f, 18.1a, 27.1b-c.)

19. Urban Services District

19.1 A District may issue revenue bonds to finance operations pursuant to the provision in chapters 58 and 66 of K.R.S. 1960 Ky. Acts c.150, §1; K.R.S. 108.010. (See also, paragraphs 10.1a, 28.1.)

20. Garbage Disposal District

20.1 A District may issue revenue bonds to finance operations pursuant to the provisions of chapter 58 of K.R.S. 1966 Ky. Acts c.66, §17; K.R.S. 109.170. (See also, paragraphs 11.4f, 29.1.)

REVENUE SOURCES

21. Constitutional Requirement

21.1 The General Assembly may not levy taxes for political subdivisions, but may confer the power. (Thus, the power for political subdivisions to finance must come from the State.) Ky. Const. 181. (See also, paragraphs 22-29.)

22. Public Projects Generally

22.1a A governmental agency shall use fees from a public project to amortize the revenue bonds issued to defray the costs of the project. 1948 Ky. Acts c.266; 1946 Ky. Acts c.126, §2; K.R.S. 58.020. (See also, paragraphs 13.1a-b, 21.1, 22.1b-g.)

22.1b A governmental agency also may use general funds for the construction or maintenance of a public project. General fund money also may be used to amortize revenue bonds. 1946 Ky. Acts §13; K.R.S. 58.130. (See also, paragraphs 13.1a-b, 21.1, 22.1a, 22.1c-g.)

22.1c A fiscal court may levy ad valorem taxes for county purposes. 1968 Ky. Acts c.100, §2; 1968 Ky. Acts c.152, §38; 1964 Ky. Acts c.66; K.R.S. 68.090. (See also, paragraphs 2.1, 13.1d, 22.1d-e.)

22.1d A fiscal court of a county containing more than 300,000 population may levy occupational license taxes. 1965 Ky. Acts 1st ex. sess., c.2, §23; 1960 Ky. Acts c.80, §1; K.R.S. 68.180. (See also, paragraphs 2.1, 22.1c, 22.1e, 24.1a-d.)

22.1e A fiscal court of a county containing more than 50,000 population may levy occupational license taxes. 1966 Ky. Acts c.263, §3; K.R.S. 68.198. (See also, paragraphs 2.1, 22.1c-d, 25.1a-d.)

22.1f Bonds issued by a County Buildings Commission under the provisions of K.R.S. 67.450 to 67.550 are to be paid from revenues. 1962 Ky. Acts c.224(11); K.R.S. 67.500. (See also, paragraphs 2.3c, 13.1c.)

22.1g Bonds issued by a fiscal court under the provisions of K.R.S. 103.300 are to be paid only from revenue. 1968 Ky. Acts, c.152, §87; 1966 Ky. Acts c.239, §112; 1946, c.169, §4; K.R.S. 103.320. (See also, paragraphs 13.1e, 30.1d.)

23. Interlocal Governmental Agreements

23.1 Bonds issued to perform any interlocal agreement shall be payable from rents, fees, royalties, rates for the service, or sales of the joint cooperative action. 1962 Ky. Acts c.216, §5; K.R.S. 65.270. (See also, paragraphs 5.2d, 14.1.)

24. County Public Improvements Finance Board (Counties of 300,000 Imposing License Fees)

24.1a A county of 300,000 imposing license fees can create such a Board. 1966 Ky. Acts c.232, §1; K.R.S. 66.510. (See also, paragraphs 22.1d, 24.1b-d.)

24.1b The Board is to manage the financing of public improvements for matters of statewide concern. Powers included are those granted by K.R.S. 58.010 to 58.140, 67.450 to 67.555, and 103.290 to 103.410. 1966 Ky. Acts c.232, §3; K.R.S. 66.517. (See also, paragraphs 1.1, 24.1a, 24.1c-d.)

24.1c Facilities of statewide concern are enumerated, including land reclamation. 1966 Ky. Acts c.232, §4; K.R.S. 66.520. (See also, paragraphs 1.1, 24.1a-b, 24.1d.)

Note: Proper solid waste disposal is a matter of statewide concern. Although the Solid Waste Disposal Act, which recites proper solid waste disposal to be a policy of the Commonwealth, was enacted in 1968, it would appear to be applicable here. (See paragraph 1.1.)

24.1d Bonds issued by the Board in accordance with K.R.S. 58.010 to 58.140 shall be paid from revenues from these public improvements. 1966 Ky. Acts c.232, §7; K.R.S. 66.527. (See also, paragraphs 15.1, 24.1a-c.)

25. County Public Improvements Finance Commission (Counties of 50,000-299,999 Imposing License Fees)

25.1a A county of 50,000 imposing license fees can create such a Commission. 1966 Ky. Acts c.263, §4; K.R.S. 66.550. (See also, paragraphs 22.1e, 25.1b-d.)

25.1b The Commission is to manage the financing of public improvements. Powers included are those granted by K.R.S. 58.010 to 58.140. 1966 Ky. Acts c.263, §6; K.R.S. 66.557. (See also, paragraphs 1.1, 25.1a, 25.1c-d.)

25.1c The Commission is concerned with the improvement of public facilities. 1966 Ky. Acts c.263, §7; K.R.S. 66.560. (See also, paragraphs 1.1, 25.1a-b, 25.1d.)

Note: Although the language is slightly different from K.R.S. 66.520 (24.1c) the intent appears to be the same, and financing solid waste disposal appears to be within such a Commission's power. (See paragraphs 1.1, 24.1c.)

25.1d Bonds issued by the Commission in accordance with K.R.S. 58.010 to 58.140 shall be paid from revenues from these public improvements. 1966 Ky. Acts c.263, §9; K.R.S. 66.567. (See also, paragraphs 16.1, 25.1a-c.)

26. City Public Works

26.1a 1st Class--city may levy ad valorem, income, license, and franchise taxes for municipal purposes. K.R.S. 91.260. (See also, paragraphs 3.1a, 26.1c.)

26.1b 2nd-6th Class--city may levy ad valorem, license, and franchise taxes for municipal purposes. 1946 Ky. Acts c.184; K.R.S. 92.280. (See also, paragraphs 3.2a, 3.3a, 2.4b, 3.5a, 3.6a, 26.1c.)

26.1c All cities can levy all taxes authorized by Ky. Const. §181. 1966 Ky. Acts c.190; 1954 Ky. Acts c.80, §1; 1948 Ky. Acts c.131; K.R.S. 92.281. (See also, paragraphs 3.1a, 3.2a. 3.3a, 3.4b, 3.5a, 3.6a, 26.1a-b.)

26.2 A city may enact service charges for a garbage disposal system created under the provision of K.R.S. 94.281 to 94.286. 1946 Ky. Acts c.69, §4; K.R.S. 94.285. (See also, paragraphs 4.3a, 17.1.)

27. Inducing Location of Governmental Projects

27.1a Bonds issued by a city under the provision of K.R.S. 82.130 are to be paid from the general fund. 1962 Ky. Acts c.178, §4; K.R.S. 82.130. (See also, paragraphs 7.1e, 18.1a, 27.1b-c.)

27.1b Bonds issued by a city under the provisions of K.R.S. 82.135 are to be paid from revenues resulting from the governmental project. 1962 Ky. Acts c.178, §5; K.R.S. 82.135. (See also, paragraphs 7.1f, 18.1b, 27.1a, 27.1c.)

27.1c A city may enact an ordinance to establish a special fund to repay revenue bonds issued under the provisions of K.R.S. 82.135. 1962 Ky. Acts c.178, §5(2); K.R.S. 82.135. (See also, paragraphs 7.1f, 18.1b, 27.1a-b.)

28. Urban Services District

28.1 A District may collect fees and levy assessments for performing services and retiring indebtedness. 1960 Ky. Acts c.150, §2; K.R.S. 108.020. (See also, paragraphs 10.1b, 19.1.)

29. Garbage Disposal District

29.1 A District may levy ad valorem taxes and/or collect fees for performing services and retiring indebtedness. The service charge authorized may be attached to either private or public utility bills. 1966 Ky. Acts c.66, §18; K.R.S. 109.180. (See also, paragraphs 11.4g, 20.1.)

ACQUISITION OF PROPERTY

Note: The purpose here is to present in one place the conveyance authority and the eminent domain right available to political subdivisions in developing a solid waste disposal service as outlined under "Procedures" in this section. For a detailed discussion of all conveyance requirements, see chapters 56, 96, and 381-383 of K.R.S., for eminent domain, see chapters 96, 99, and 416 of K.R.S.

CONVEYANCE

30. Transferring Property - State, County, City

30.1a The State, through the Department of Finance, may sell unneeded state property. 1966 Ky. Acts c.111, §1; 1956 Ky. Acts 1st ex. sess., c.7, Art. 16, §4; K.R.S. 56.463. (See also, paragraphs 2-5, 10, 11, 30.1c-e, 31.)

30.1b Any county or city may convey (and receive) real estate. 1958 Ky. Acts c.21; K.R.S. 65.010. (See also, paragraphs 2-4, 30.1a, 30.1c-e, 31. 32.)

30.1c A fiscal court may sell and convey real estate belonging to the county, and buy land for the use of the county. 1966 Ky. Acts c.191; 1956 Ky. Acts c.248; 1946 Ky. Acts c.21; K.R.S. 67.080. (See also, paragraphs 2.1, 2.2a, 2.2c, 2.3b, 30.1d-e, 37.1.)

30.1d A fiscal court may acquire county buildings, land, and equipment for buildings. 1946 Ky. Acts c.169, §1; K.R.S. 103.290. (See also, paragraphs 2.1, 2.2a, 2.2c, 2.3b, 30.1c, 30.1e, 37.1.)

30.1e A fiscal court may use its county building fund to acquire and purchase such lands as it sees fit. 1946 Ky. Acts c.101; K.R.S. 68.125. (See also, paragraphs 2.1, 2.2a, 2.2c; 2.3b, 30.1c-d, 37.1.)

31 City Public Works

31.1 Inducing Governmental Projects--a city may acquire and improve land for inducing governmental projects. 1962 Ky. Acts c.178, §2; K.R.S. 82.110. (See also, paragraphs 7.1a, 38.1.)

31.2 1st Class--city may acquire or lease property for municipal purposes by purchase or otherwise. K.R.S. 83.010. (See also, paragraphs 3.1b, 4.1a, 31.8b, 38.2a.)

31.3 2nd Class--city may acquire or lease property for municipal purposes. K.R.S. 84.010. (See also, paragraphs 3.2a, 4.1b, 31.8c, 38.3.)

31.4 3rd Class--city may acquire land or buildings for municipal purposes. K.R.S. 85.140. (See also, paragraphs 3.3b, 4.1b, 31.8d, 38.4.)

31.5 4th Class--city may acquire property for municipal purposes. 1962 Ky. Acts c.17, §1; K.R.S. 86.010. (See also, paragraphs 3.4a, 4.1b, 31.8d, 38.5.)

31.6 5th Class--city council may acquire property for municipal purposes. K.R.S. 87.080. (See also, paragraphs 3.5c, 4.1b, 38.6.)

31.7 6th Class--Board of Trustees may acquire property for municipal purposes. K.R.S. 88.090. (See also, paragraphs 3.6b, 4.1b, 38.7.)

31.8a 1st Class--Department of Public Works has control over public buildings and improvements. 1952 Ky. Acts c.56, §11; K.R.S. 93.060. (See also, paragraph 31.8b.)

31.8b 1st Class--Department of Public Works acquires property for the use of the city. K.R.S. 93.100. (See also, paragraphs 3.1b, 4.1a, 31.2, 31.8a.)

31.8c 2nd Class--Superintendent of Public Works has control over public buildings and improvements. If a city has enacted a Board of Public Works, the Board has this power. K.R.S. 94.040. (See also, paragraphs 3.2a, 4.1b, 31.3.)

31.8d 3rd-4th Class--Board of Public Works has control over public buildings and improvements. K.R.S. 94.110. (See also, paragraphs 3.3b, 3.4a, 4.1b, 31.4, 31.5.) Note: Chapter 94 of K.R.S. does not require a Board of Public Works for 5th and 6th Class Cities. However, this does not mean that these cities cannot undertake public works since this is inherent in the ability to acquire property, which is authorized by statute. (See paragraphs 31.6, 31.7.)

32. Garbage Disposal in Cities

32.1a 1st Class--city may acquire suitable land for dumping garbage and shall keep such land in repair. See K.R.S. 93.100. (See also, paragraphs 4.1a, 32.1c, 38.8.)

32.1b 2nd-6th Class--cities may acquire suitable lands for garbage dumps. K.R.S. 94.280. (See also, paragraphs 4.1b, 32.1c, 38.8.)

32.1c A city has the power, under the provisions of K.R.S. 96.550 to 96.900, to acquire an existing garbage disposal system from a company having a franchise. 1946 Ky. Acts c.69, §2; K.R.S. 94.282. (See also, paragraphs 4.1a-b, 32.1a-b, 38.3-38.7.)

33. Urban Services District

33.1 A District has the power to acquire property for district purposes. 1960 Ky. Acts c.150, §1; K.R.S. 108.010. (See also, paragraphs 10.1a, 39.1.)

34. Garbage Disposal District

34.1a A District has the power to acquire an existing garbage disposal system. 1966 Ky. Acts c.66, §2; K.R.S. 109.030. (See also, paragraphs 11.1c, 34.1b, 40.1.)

34.1b A District may acquire property for district purposes. 1966 Ky. Acts c.66, §15; K.R.S. 109.150. (See also, paragraphs 11.4d, 34.1a, 40.1.)

EMINENT DOMAIN

35. Constitutional Requirements

35.1 Property is not to be taken or applied to public use without just compensation. Ky. Const. 13. (See also, paragraphs 35.2, 35.3, 36-40.)

35.2 The right of eminent domain is retained by the Commonwelath. Ky. Const. 195. (See also, paragraphs 35.1, 35.3, 36-40.)

35.3 Municipal and other corporations invested with the right of eminent domain shall not take private property without just compensation. Persons whose property is to be taken have the right of appeal and the right of a jury trial. Ky. Const. 242. (See also, paragraphs 35.1, 35.2, 36-40.)

36. Eminent Domain: State, County, City

36.1a Condemnation is available to political subdivisions as a means for acquiring property for public projects. 1946 Ky. Acts c.126, §14; K.R.S. 58.140. (See also, paragraphs 2-5, 7, 10, 11, 36.1b, 37-40.)

36.1b Counties and cities have the right to proceed under the provisions of K.R.S. 416.120, 416.230 to 416.310 to use the right of eminent domain for any public purpose. 1962 Ky. Acts c.142; 1950 Ky. Acts c.28; 1944 Ky. Acts c.19; K.R.S. 416.115. (See also, paragraphs 2-5, 36.1a, 37, 38.)

37. Counties

37.1 A fiscal court may condemn land for county purposes under the provision of K.R.S. 416.110. 1946 Ky. Acts c.94; K.R.S. 67.085. (See also, paragraphs 2.2b, 36.1a-b.)

38. Cities

38.1 Inducing Governmantal Projects--a city may exercise the right of eminent domain to acquire land under the procedure described in K.R.S. 99.420 for inducing governmental projects. 1962 Ky. Acts c.178, §8; K.R.S. 82.180. (See also, paragraphs 7.1g, 31.1, 36.1a-b.)

38.2a 1st Class--city may exercise the right of eminent domain to acquire property for municipal purposes. K.R.S. 83.010. (See also, paragraphs 3.1a, 4.2b, 31.2, 31.8b, 36.1a-b, 38.2b, 38.8.)

38.2b 1st Class--Department of Public Works may exercise the right of eminent domain in the manner provided in K.R.S. 416.120 to acquire property for municipal purposes. K.R.S. 93.100. (See also, paragraphs 3.1a, 4.2b, 31.2, 31.8b, 36.1a-b, 38.2a, 38.8.)

38.3 2nd Class--the general council may exercise the right of eminent domain under the general laws regulating the exercise of that right to acquire property for municipal purposes. K.R.S. 84.150. (See also, paragraphs 3.2b, 4.2b, 31.3, 36.1a-b, 38.8.)

38.4 3rd Class--the common council may exercise the right of eminent domain under the provisions of K.R.S. 416.010 to 416.080 to acquire property for municipal purposes. K.R.S. 85.120. (See also, paragraphs 3.3a, 4.2b, 31.4, 36.1a-b, 38.8.)

38.5 4th Class--the city council may exercise the right of eminent domain under the provisions of K.R.S. 416.010 to 416.080 to acquire property for municipal purposes. K.R.S. 86.110. (See also, paragraphs 3.4b, 4.2b, 31.5, 36.1a-b, 38.8.)

38.6 5th Class--the proper authorities of a city may condemn land under the provisons of K.R.S. 416.010 to 416.080, to acquire property for municipal pruposes. K.R.S. 87.090. (See also, paragraphs 3.5b, 4.2b, 31.6, 36.1a-b, 38.8.)

38.7 6th Class--the proper authority of a city may condemn land under the provisions of K.R.S. 416.010 to 416.080 to acquire property for municipal purposes. K.R.S. 88.100. (See also, paragraphs 3.6c, 4.2b, 31.7, 36.1a-b, 38.8.)

38.8 A city may exercise the right of eminent domain under the provisions of K.R.S. 96.550 to 96.900 to acquire an existing garbage disposal system from a company having a franchise. 1946 Ky. Acts c.69, §2; K.R.S. 94.282. (See also, paragraphs 3, 4.2b, 32.1c, 36.1a-b, 38.2a-7.)

39. Urban Services District

39.1 A District may exercise the right of eminent domain under the procedure outlined in K.R.S. 416.120 to acquire property for district purposes. 1960 Ky. Acts c.150, §1; K.R.S. 108.010. (See also, paragraphs 10.1a, 33.1, 36.1a-b.)

40. Garbage Disposal District

40.1 The Board of the District may condemn property under the procedures prescribed in K.R.S. 416.230 to 416.310 to acquire property for district purposes. 1966 Ky. Acts c.66, §16; K.R.S. 109.160. (See also, paragraphs 11.4e, 34.1a-b, 36.1a-b.)

SECTION III
ADMINISTRATIVE REGULATIONS RELATED TO SOLID WASTE MANAGEMENT

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III. ADMINISTRATIVE REGULATIONS RELATED TO SOLID WASTE MANAGEMENT

INTRODUCTION

Many of the statutes enacted by the General Assembly are specific in nature; that is, they compel or prohibit acts, establish departments and agencies of the State and its political subdivisions, or describe specific duties of public officials. Most of the statutes discussed in Sections I and II are of this type.

The General Assembly also enacts statutes having the following type of wording: "the department shall enact regulations to enforce and administer this chapter," "according to standards prescribed by the Commissioner," or "all other such information as the Commissioner may require." In this type, the General Assembly delegates the authority to a department or agency for it to decide the specific acts to be compelled or prohibited, the form of its organization, or the specific duties of its officials. In other words, the department or agency is to enact administrative regulations. These statutes are enacted, because they deal with matters which may require frequent revision. Such revision is deemed by the General Assembly to be accomplished best by those closest to the problems. Since administrative regulations have the force of law, it is necessary to include a discussion of the relevant regulations promulgated under this delegated authority in order to present a complete report on solid waste management.

Unless otherwise provided by law, each state agency in Kentucky may adopt reasonable regulations to implement administration and execution of the functions assigned to it by law. 1956 Ky. Acts c.97, §2; K.R.S. 13.081. Each regulation must cite the authority pursuant to which it, or any part of it, was adopted and must be filed with the Legislative Research Commission (L.R.C.) in order to be effective. This latter provision is important for if a regulation is not filed, it cannot be enforced. 1952 Ky. Acts c.63, §2; K.R.S. 13.085. The act of filing with L.R.C. gives the legal presumption that the regulation was adopted and filed in compliance with all requirements necessary to make it effective. 1956 Ky. Acts 1st ex. sess., c.6, §3; K.R.S. 13.100. Filing also allows the courts to take judicial notice of regulations. 1952 Ky. Acts, c.63, §6; K.R.S. 13.105.

This section includes all Kentucky Administrative Regulations (K.A.R.) relating to solid waste management. These regulations are arranged by the department responsible for them and then chronologically under the department by the enabling statutes. Cross referencing follows the format used in Sections I and II. For the exact wording of these regulations, please consult the appropriate section of Kentucky Administrative Regulations.

DIRECTIONS FOR USE

CODIFICATION FORMAT

Ⓐ 1.1a Ⓑ Solid Waste Site and Facility Permits--Ⓒ Applications to the Department must be made through the County Health Department (or City-County Health Department) of the county in which site is to be located. Applications must include name and address of applicant, topographical map of site location, or detailed description of proposed construction and/or operation, and such additional information as is deemed necessary by the Department. Permits are issued no sooner than 14 days after application has been submitted. All permits must specify the conditions under which facility is to be constructed or operated. Any modification in this requires Department notice and prior approval. Ⓓ SW 1. Ⓔ Effective: 1 July 1968. Ⓕ Authorized by: K.R.S. 211.180, 211.727 [211.090.]. Ⓖ Relates to: K.R.S. 211.713, 211.717. Ⓗ (See also, paragraphs I 7.1b, I 7.4d, I 35.1b, I 35.4d, 1.1b-d, 1.5a, 5.1a.)

FORMAT EXPLANATION

Ⓐ Paragraph number assigned to this regulation for this codification

Ⓑ Title of Regulation

Ⓒ Applications

Ⓓ Regulation number

Ⓔ Effective date of regulation

Ⓕ Statutory authority for regulation

Ⓖ Statutes to which the regulation relates

Ⓗ Other regulations and statutes to which the regulation relates. Cross references permit easy location.

[ ] indicate statutes which should have been cited as the statutory authority for the regulation or statutes which were not cited but to which the regulation relates.

KENTUCKY ADMINISTRATIVE REGULATIONS

REGULATIONS RELATING TO SOLID WASTE GENERALLY

1. Department of Health

Note: 1954 Ky. Acts c.157, §7; K.R.S. 211.090 enables the State Board of Health to adopt all regulations necessary to regulate and control all matters set forth in K.R.S. 211.180. The matters set forth in 1954 Ky. Acts c.157, §12; K.R.S. 211.180 include: detention, prevention, and control of communicable diseases; health hazards peculiar to industry; home health hazards; animal diseases transmissible to man; such other diseases and health hazards as may be controlled; control of insects, rodents, and other vectors of disease; proper disposal of garbage, waste, and other refuse; safe handling of food and food products; sanitation of schools, industrial establishments, and other public and semipublic buildings; review and approval or disapproval of plans for construction, modification or extension of food handling establishments and such other establishments, systems, plants, and places as are designated by the Board; licensure of hospitals; and the control of such other factors as may be necessary to insure a safe and sanitary envioronment.

From the above, it is clear that the State Board of Health can promulgate regulations on all matters within the Department of Health's jurisdiction--at least in all phases of solid waste disposal within its jurisdiction--without additional authorizing legislation. Yet, most of the Department's regulations were enacted under authority of a "subject matter" enabling statute. For example, FDC 22. "State Food Service Code," was enacted pursuant to 1960 Ky. Acts c.247, §13; K.R.S. 217.125. Yet K.R.S. 211.090 coupled with K.R.S. 211.180, both of which date from 1954, permit such a regulation to be promulgated. Thus, K.R.S. 217.125, enacted in 1960, was superfluous.

1.1 Solid Waste Disposal Sites

1.1a Solid Waste Site and Facility Permits--Applications to the Department must be made through the County Health Department (or City-County Health Department) of the county in which site is to be located. Application must include name and address of applicant, location of the proposed site, nature of the site's soil conditions, topographical map of site location, or detailed description of proposed construction and/or operation, and such additional information as is deemed necessary by the Department. Permits are issued no sooner than 14 days after application has been submitted. All permits must specify the conditions under which the facility is to be constructed or operated. Any modification requires Department notice and prior approval. SW 1. Eff.: 1 July 1968. Auth. by: K.R.S. 211.180, 211.727 [211.090]. Relates to: K.R.S. 211.713, 211.717. (See also, paragraphs I 7.1b, I 7.4d, I 35.1b, I 35.4d, 1.1b-d, 1.5a, 5.1a.)

1.1b Sanitary landfills--Facilities are to be designed in accordance with this regulation by a registered professional engineer. The Department shall make periodic inspections and evaluations of solid waste disposal operations. Covered in detail are geological characteristics, cover materials, water pollution, equipment condition, and surface contours. Site must be fenced, and access road and shelter provided. Operation of a facility--including items such as cover depth and salvaging--are covered in detail. Scavenging, feeding of animals, deposition of refuse in standing water, and burning (unless in an approved incinerator or burner) are prohibited. SW 2. Eff: 1 July 1968. Auth. by: K.R.S. 211.180, 211.727 [211.090]. Relates to: K.R.S. 211.720. (See also, paragraphs I 7.1b, I 7.4d, I 35.1b, I 35.4d, 1.1a, 1.1c-d, 1.5a-b, 5.1a.)

1.1c Incineration--Permission must be obtained from the Department if a municipal incinerator is to be used. Incinerator size, capacity, design, and its surroundings must be given to the Department for approval. Incinerator operation shall conform with air pollution laws and regulations. An Air Pollution Control Commission (APCC) permit is required for the operation of an incinerator or refuse burner. Only APCC type 1 waste shall be disposed of in a refuse burner. SW 3. Eff.: 1 July 1968. Auth. by: K.R.S. 211.180, 211.727 [211.090]. Relates to: K.R.S. 211.720. (See also, paragraphs I 7.1b, I 7.4d, I 35.1b, I 35.4d, 1.1a-1.1b, 1.1d, 1.7a, 1.7c-d, 1.7f, 5.1a.)
Note: Only municipal incinerators require Department approval and permission according to the wording of the regulation. Thus, if an incinerator is used by any entity other than a municipality--for example, a county, special district, private corporation, or an individual--Department permission under this regulation is not required.

The parts of this regulation requiring adherence to air pollution laws and regulations, and requiring an APCC permit, are not only superfluous but seem to be encroaching upon APCC and Air Pollution Control District (APCD) prerogatives. 1952 Ky. Acts c.53, §48; K.R.S.

77.195 allows an APCD to require incinerator registration and to issue such permits; 1952 Ky. Acts c.53, §61; K.R.S. 77.235 prohibits violation of the air pollution control laws. (When this statute was enacted, chapter 77 constituted the whole of the air pollution laws.) 1966 Ky. Acts c.22, §7; K.R.S. 224, 350 requires persons whose business contributes to air pollution to register with the APCC; and 1966 Ky. Acts c.22, §17; K.R.S. 224.991 provides penalties for the violation of the air pollution law of chapter 224 of K.R.S. Plus the Department, in 1967, through the APCC, had promulgated APCC 1, which requires registration of those persons whose equipment contributes to air pollution. The type of waste to be burned in incinerators is an APCC prerogative and is covered in APCC 3. (See also, paragraphs I 7.1b, I 7.4d, I 35.1b, I 35.4d, 1.7a, 1.7c-d, 1.7f, 5.1a.)

1.1d Other Disposal Methods--No permit shall be issued for the construction or operation of an open dump for a disposal site. Other methods of disposal, about which no specific solid waste regulations have been promulgated, will be considered on an individual basis by the Department. SW 4. Eff.: 1 July 1968. Auth. by: K.R.S. 211.180, 211.727, [211.090]. Relates to: K.R.S. 211.730. (See also, paragraphs I 7.1b, I 7.4d, I 35.1b, I 35.4d, 1.1a-c, 1.5, 1.7, 5.1a.)

1.2 Hospital Standards and Garbage Disposal

1.2a Minimum Standards for Hospital and Nursing and Convalescent Homes--Garbage containers shall be made of metal or other impervious material, and shall be watertight, rodent and have tight-fitting covers. Garbage from tuberculosis hospitals or tuberculosis wards of other hospitals shall be incinerated on the grounds of the hospital or disposed of by some other method approved by the Department. Garbage to be sold or used for livestock feed shall be treated at the grounds by heating at a temperature of at least 212°F for at least 30 minutes in an apparatus and by methods approved by the Department. HL 1-2. Eff.: 28 July 1963. Auth. by: K.R.S. 211.090, 211.180, 216.470. Relates to: K.R.S. 216.450. (See also, paragraphs I 7.1b, I 7.5b, 1.1c, 1.7a, 1.7c, 1.7f, 2.1c.)

1.3 Food Establishments and Garbage Disposal

1.3a State Food Service Code--All garbage, prior to disposal, shall be kept in leakproof nonabsorbent containers; these containers shall be covered with tight-fitting lids when not in continuous use. If the containers are stored in a vermin-proff room or a food-waste refrigerator, then tight-fitting lids are not required. All other rubbish shall be stored in containers, rooms, or areas in an approved manner. The rooms, enclosures, areas, and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Each container, room, or area shall be cleaned thoroughly after emptying or removal of garbage and rubbish. If a food waste grinder is used, it must conform to the state plumbing code. FDC 22. Eff.: 1 July 1969. Auth. by: K.R.S. 217.125 [211.090, 211.180]. Relates to: K.R.S. 217 [217.290, 217.330, 217.380, 219.020, 219.030, 219.060]. Note: 1960 Ky. Acts c.247, §13; K.R.S. 217.125, under which this regulation was promulgated, gives the State Board of Health the power to enact regulations to administer and enforce K.R.S. 217.005 to 217.215, the Food, Drug, and Cosmetic Act of 1960. This act covers adulterated and misbranded food, drugs, or cosmetics. It does not cover food establishments; this is in K.R.S. 217.280 to 217.390. Food establishment inspection by the Division of Hotel Inspection is in K.R.S. 219.010 to 219.060. Any part of this regulation which goes beyond food, drug, and cosmetic adulteration and misbranding is void, because it is beyond the scope of the enabling statute, which covers only K.R.S. 217.005 to 217.205. Thus, the portion of FDC 22 relating to garbage disposal is invalid, because it goes beyond the authority granted in K.R.S. 217.125. If the food establishment part of this regulation were to be promulgated under the authority of K.R.S. 211.090 and 211.180, it would be valid. (See Note for paragraph 1.)

1.4 Trailer Parks

1.4a Trailer Coach Parks--Applications for a permit to operate, construct, or alter extensively a trailer park must include complete plans of the park. This plan must show the method of garbage and refuse disposal which is to be used. The plan must have Department approval. SAN 1-1. Eff.: 5 March 1955. Auth. by: K.R.S. 219.120 to 219.250 [211.090, 211.180, 219.200]. Relates to: K.R.S. 219 [219.130, 219.180]. (See also, paragraphs I 7.1b, I 7.7c, 1.1, 1.5, 1.7.)

1.5 Water Pollution Control Commission

1.5a Permits to Discharge Sewage, Industrial Wastes, or Other Wastes--Permits are required for new works, or existing works which may discharge wastes into any waters of the Commonwealth. Application for permits must be submitted to the Water Pollution Control Commission (WPCC). Application must detail plans for a disposal system, which must be approved by WPCC. WP 1. Eff.: 14 February 1957. Auth. by: K.R.S. 224.040 [211.090, 211.180]. Relates to: K.R.S. 224.040 [224.060]. (See also, paragraphs I 7.8, I 35.6, 1.1b, 1.5b-d, 1.6a, 5.1a.)

Note: K.R.S. 220.610, pursuant to which this regulation was promulgated, was renumbered in 1966, by the Statute Revisor of L.R.C. to K.R.S. 224.040. The regulation should be amended to reflect this change. (See Note for paragraph 4.2a.)

1.5b Bypassing of Sewage, Industrial, and Other Waste Treatment Plants; and Emergency, Accidental, or Other Excessive Spills and Discharge of Sewage, Industrial, or Other Wastes--If it is necessary to bypass treatment of wastes before the wastes are discharged into the waters of the Commonwealth, then WPCC must be notified immediately before any such bypassing occurs. WPCC personnel shall supervise this. If an emergency bypassing or accidental spill occurs, WPCC must be notified as soon as possible after such discharge. Failure in either case to notify, automatically revokes the permit granted by the WPCC. WP 3. Eff.: 24 April 1958. Auth. by: K.R.S. 224.040 [211.090, 211.180]. Related to: K.R.S. 224.040 [224.060]. (See also, paragraphs I 7.8, I 35.6, 1.1b, 1.5a, 1.5c, 1.5d, 5.1a.)

Note: K.R.S. 220.610, pursuant to which this regulation was promulgated, was renumbered in 1966 by the Statute Revisor of L.R.C. to K.R.S. 224.040. The regulation should be amended to reflect this change. (See Note for paragraph 4.2a.)

1.5c Water Quality Standards for Interstate Waters--Covered herein are the minimum standards for water quality in all interstate waters bounding or coursing through the State; and the minimum standards for stream use for public water supply and food processing by industrial, recreational, and agricultural water users, and for the level of aquatic life. WP 4. Eff.: 7 June 1969. Auth. by: K.R.S. 224.040 [211.090, 211.180]. Related to: K.R.S. 224.010 to 224.210, 224.990 [224.040, 224.060]. (See also, paragraphs I 7.8, I 35.6, 1.5a, 1.5b, 1.5d, 5.1a.)

1.5d Pollution from Boats and Vessels--Discharge of wastes from a boat into the waters of the Commonwealth without WPCC permission is prohibited. WPCC supplies, upon request, a list of approved types of water pollution control devices currently available and acceptable for use on motorboats. WP 5. Eff.: 27 June 1969. Auth. by: K.R.S. 224.040, 235.070 [211.090, 211.180]. Relates to: K.R.S. 224.040, 235.070 [224.060]. (See also, paragraphs I 7.8, I 35.6, 1.5a-c, 5.1a.)

1.6. Septic Tanks

1.6a No regulations regarding septic tank disposal have been promulgated by the Department. Auth. by: K.R.S. [211.090, 211.180]. Relates to: [K.R.S. 224.223, 224.225, 224.227, 224.230]. (See also, paragraphs I 7.1b, I 22.1b, I 35.1b, 1.5a.)

1.7. Air Pollution Control Commission

1.7a Registration of Air Contaminants and Air Contaminant Sources--Included in the listing of persons who engage in operations which discharge contaminants into the air are operations resulting from refuse disposal (incineration). Such persons must report on the nature of the air contaminating operations. Forms for both registering and reporting are supplied by the APCC. APCC 1. Eff.: 20 July 1967. Auth. by: K.R.S. 224.430 [211.090, 211.180] (cf. 77.190). Relates to: K.R.S. 224.350 (cf. 77.175, 77.195). (See also, paragraphs

I 7.9f, I 35.7f, 1.1c, 1.2a, 1.7b-h, 5.1a.)

1.7b Prohibition of Open Burning--Open burning by any person is prohibited. But, the following relevant exceptions to open burning exist: agricultural growing and harvesting; weed abatement; and disposal of household rubbish, but not including garbage, at dwelling units containing five families or less. APCC 2. Eff.: 8 December 1967. Auth. by: K.R.S. 224.430 [211.090, 211.180] (cf. 77.180, 77.190). Relates to: K.R.S. 224.310, 224.460, 224.991 [149.370, 149.375, 149.385, 224.330] (cf. 77.155). (See also, paragraphs I 7.9f, I 35.7f, 1.1c, 1.7a, 1.7c-h, 5.1a.)

1.7c Prevention, Abatement, and Control of Emissions of Air Contaminants--Covered herein are the emission and operation standards for incinerators burning at 1,200 lbs./hr. types 0, 1, 2, 3, 4 wastes. Backyard burners having a capacity of 2 bu. (4 ft.^{3}) or less are exempted from these standards. Wastes are classified as follows: 0 = trash; 1 = rubbish; 2 = refuse consisting of an even mixture, by weight, of rubbish and garbage; 3 = garbage, consisting of animal and vegetable wastes from restaurants, hospitals and markets; 4 = human and animal remains; 5 = industrial by-product wastes in a gaseous, liquid, or semi-liquid state; and 6 = industrial by-product wastes in a solid state. APCC

3. Eff.: 8 December 1967. Auth. by: K.R.S. 224.430 [211.090, 211.180] (cf. 77.180, 77.180). Relates to: K.R.S. 224.330, 224.410 (cf. 77.155, 77.195). (See also, paragraphs I 7.9f, I 35.7f, 1.1c, 1.2a, 1.7a, 1.7b, 1.7d-h, 5.1a.)

1.7d Prevention, Abatement, and Control of Emissions of Air Contaminants from Waste Burners--Covered herein are the emission and operation standards for waste burners, that is, for burners commonly known as tepees, wigwams, truncated cones, and silos, but not incinerators. Permission for construction of waste burners is required from the APCC. These standards must meet the minimum shade of #2 on the Ringelmann Chart. Backyard burners having a capacity of 2 bu. (4 ft.^{3}) or less are exempted from these standards. APCC 4. Eff.: 8 December 1967. Auth. by: K.R.S. 224.430 [211.090, 211.180] (cf. 77.180, 77.190). Relates to: K.R.S. 224.330, 224.360, 224.410 (cf. 77.155, 77.195). (See also, paragraphs I 7.9f, I 35.7f, 1.1c, 1.7a-c, 1.7e-h, 5.1a.)

1.7e Prevention, Abatement and Control of Emission of Air Contaminants from Coal Refuse Disposal Areas--The operation of a new coal refuse disposal area without prior approval of the APCC is prohibited. Application which details the procedures for disposal must be submitted to the APCC. Covered in detail are the operating standards for coal refuse disposal areas; garbage, trash, household refuse, and like materials shall not be deposited on or near any coal refuse disposal area. Each such area causing air pollution will be considered on an individual basis by the APCC. All burning of coal refuse must be done with diligence. When the APCC finds that such an area contributes to air pollution, the person responsible must submit a satisfactory program of elimination, prevention, or reduction of air pollution to the APCC. APCC 5. Eff.: 8 December 1967. Auth. by: K.R.S. 224.430 [211.090, 211.180] (cf. 77.190). Relates to: K.R.S. 224.330, 224.360, 224.410 (cf. 77.175, 77.195). (See also, paragraphs I 7.9f, I 35.7f, 1.7a-d, 1.7f-h, 5.1a.)

1.7f Permit to Construct an Air Contaminant Source--Covered herein is the detailed information required by the APCC in its applications. Applications must state the type and number of air contamination sources, the nature of the contamination, and the methods employed to reduce or eliminate the contamination. The APCC must act upon an application not sooner than 30 days nor more than 60 days from the filing date of the application. Exceptions to this filing requirement include the exceptions to open burning listed in APCC 2 (1.7b) and backyard burners having a capacity of 2 bu. (4 ft.^{3}) or less. APCC 8. Eff.: 27 November 1969. Auth. by: K.R.S. 224.430 [211.090, 211.180] (cf. 77.180, 77.190). Relates to: K.R.S. 224.360 [224.410] (cf. 77.195, 77.220). (See also, paragraphs I 7.9f, I 35.7f, 1.1c, 1.2a, 1.2a, 1.7a-e, 1.7g, 1.7h, 5.1a.) Note: APCC 1 (20 July 1967) and APCC 8 (27 November 1969) basically cover the same thing; the former is general and the latter is detailed. Since APCC 8 complements APCC 1, it would have been better if APCC 1 had been amended to incorporate the provisions of APCC 8. If this were done, then all APCC provisions regarding registration and permits would be in one regulation.

1.7g Ambient Air Standards--Covered herein are the air quality standards, and the schedule for meeting them, which are to be observed and achieved by all persons operating sources of air pollution. APCC 9. Eff.: 27 February 1970. Auth. by: K.R.S. 224.340 [211.090, 211.180, 224.430] (cf. 77.180, 77.190). Relates to: K.R.S. 224.340 (cf. 77.155, 77.180, 77.190). (See also, paragraphs I 7.9f, I 35.7f, 1.7a-f, 1.7h, 5.1a.)

1.7h **Exemptions from Regulations**--Any person who owns or is in control of any plant building, structure, process, or equipment, may apply to the APCC for full or partial exemption from the provision of K.R.S. 224.310 to 224.460, and 224.991 or the regulations promulgated thereunder. Application for this shall include such information and data as the APCC may require. The APCC may grant such full or partial exemption if it finds that the occurring or proposed discharges do not constitute a danger to public health or safety, and compliance with the laws and regulations would produce hardship without equal benefits to the public. APCC 10. Eff.: 28 March 1970. Auth. by: K.R.S. 224.430, 224.410 [211.090, 211.180] (cf. 77.180, 77.195). Relates to: K.R.S. 224.410 (cf. 77.195, 77.220, 77.245, 77.260). (See also, paragraphs I 7.9f, I 35.7f, 1.7a-g, 5.1a.)

2. Department of Agriculture

2.1 Division of Livestock Sanitation

2.1a **Definitions and Terms Used in Regulations Relating to Division of Livestock Sanitation**--Garbage is defined as waste constituting all or part of animal waste resulting from handling, preparing, cooking, and consuming of food including the offal from animal carcasses, or parts thereof, but excluding such waste from ordinary household operations which is fed directly to swine on the same premises. Ls D 5. Eff.: 1 February 1968. Auth. by: K.R.S. 257 [217.823, 257.020, 257.030]. Relates to: K.R.S. 257 [217.823]. (See also, paragraphs I 8, I 23, I 36, 2.1b-d.)

2.1b Declaration of Authority Specifying Sanitary Requirements and Operational Procedures as Pertains to Disease Control in all Stockyards--All stockyards and sale barns are to be cleaned and disinfected routinely, and maintained in a workable condition. Stockyards and sale barns shall be inspected as required by a representative of the State Board of Agriculture. Ls D 35-3. Eff.: 1 February 1968. Auth. by: K.R.S. 257 [217.823, 257.020, 257.030, 261.210, 263.110]. Relates to: K.R.S. 257 [217.823, 263.080, 263.090, 263.110]. (See also, paragraphs I 8, I 23, I 36, 1.5, 2.1a, 2.1c-d.) Note: Ls D 35-3 Section II.A., lines 3-4 read: "Stockyards and sale barns shall be inspected as required by a representative of the board." This is ambiguous in its meaning. If representatives of the Board are required by statute or regulation to inspect, then "by law" or "by regulation" should be inserted after "as required" and before "by a representative." If the representative of the Board is the one who determines the frequency and condition necessary for inspection, then the above should read, "...shall be inspected as often as is determined necessary by a representative of the Board."

2.1c Regulation to Prohibit the Feeding of Untreated Garbage to swine--Covered in detail are all aspects of feeding garbage to swine. A permit is required from the Division, but an individual farmer who feeds household garbage to swine raised for his own use is exempted from this requirement. Cooking standards: 212°F for 30 minutes; a farmer feeding garbage to swine raised for his own use is exempted from this standard. Methods for cooking permitted: wet steaming or boiling in an open vat, dry steaming or boiling in a jacketed kettle, steaming in a pressure cylinder, using a steam boiler, or direct heating over an open fire. Ls D 42. Eff.: 1 February 1968. Auth. by: K.R.S. 257 [217.823, 257.020, 257.030]. Relates to: K.R.S. 257 [217.823]. (See also, paragraphs I 8, I 23, I 36, 1.2a, 2.1a, 2.1b, 2.1d.)

2.1d Disposal of Dead Carcasses--If a dead carcass is to be transported over a highway, then the carcass must be covered completely by tarpaulin or other heavy material.

Ls D 45. Eff.: 1 February 1968. Auth. by: K.R.S. 257 [257.020, 257.030, 263.100]. Relates to: K.R.S. 257 [257.160, 263.090]. (See also, paragraphs I 8, I 23, I 36, 2.1a-c.)

Note: Presumably this regulation is based upon K.R.S. 257.020 and 257.030, which date from at least 1942 when K.R.S. was enacted as positive law. ("Presumably" is used because this regulation cites only chapter 257 as its authority.) In 1966, the General Assembly enacted chapter 263, "Disposal of Dead Animals," of K.R.S. This chapter duplicates much of chapter 257, yet that part of chapter 257 was not repealed. 1966 Ky. Acts c.47, §9; K.R.S. 263.090 provides, in detail, the methods of disposing of dead animal carcasses. Yet this regulation, promulgated in 1968, was made pursuant to K.R.S. 257 and related to K.R.S. 257, instead of being pursuant to K.R.S. 263.100 and related to K.R.S. 263.090. Since K.R.S. 263 exists and is the latest enactment on the subject, this and future regulations on the disposal of dead animals should be based on K.R.S. 263.100 and relate to the statutes in K.R.S. 263 and not on K.R.S. 257.

2.2 Meat Inspection

Note: In the other administrative regulations found in K.A.R., including other regulations enacted by the Department of Agriculture, there is a heading composed of the following:

- Regulation number
- Title
- Statute(s) or regulation(s) to which the regulation relates
- Regulation(s), if any, which the regulation supersedes
- Statute(s) to which the regulation is pursuant.

This format gives a clear, concise presentation of the material required by 1952 Ky. Acts c.63, §2; K.R.S. 13.085. However, in the Meat Inspection Code, the Department has not followed this standard format; this makes it difficult to ascertain important information. The regulation numbers are given throughout the code, with their titles, but not in the standardized format. Nowhere, even in the introduction, are the statutes to which these regulations relate given. These regulations supersede Department of Health, FDC 7-1, "Slaughterhouses and Meat Processing Plants." Before 1968, this function was placed in the Department of

Health, but nowhere is this stated in these regulations. From reading the introduction, one can surmise that these regulations are pursuant to chapter 217 of K.R.S., but nowhere is it stated explicitly which statutes authorize these regulations. The effective date is found at the end of the code and not at the end of each regulation as in the standard format.

In the Agriculture Table of Contents, the Meat Inspection Code is listed as MI 1, which gives the impression that just one regulation comprises the code. But the format actually used indicates that 30 regulations comprise the code. Thus, the entry should read, "MI 1-30 Meat Inspection Regulations," and, for consistency with the other regulations in the Table of Contents, each regulation's number and title should be listed.

Much of the matter covered by these regulations is clearly related and pursuant to the sections on animal carcass disposal in K.R.S. 257 and 263 and not to meat inspection, yet these regulations do not indicate this pursuant authority nor the related statutes of K.R.S. 257 and 263. This should be done, for these parts of the regulations otherwise will not be valid, for the same reason given above in the discussion of the State Food

Service Code. (See Note for paragraphs 1.3a.) In summary, the standardized format should be repeated for each regulation in this Code; this would greatly improve the clarity.

2.2a Scope of Inspection--Every establishment in which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered for food is covered by meat inspection regulations MI 1-30. MI 2. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.847, 217.850, 217.863]. Relates to: [K.R.S. 217.807, 217.810, 217.813, 217.847, 217.850, 217.996]. (See also, paragraphs I 8, I 23.1a, I 36, 1.3a, 2.1, 2.2b-m.)

2.2b Application of Inspection: Farmer Food Commissary, Retail Outlet, and Federal Establishment Exemption--Every type establishment enumerated in MI 2 shall be liable for inspection. For proposed new establishments and for expansion of established firms, detailed plans must be submitted to the Division of Meat Inspection for approval. Exempted from these requirements are the following: a person slaughtering his own livestock for his personal use, provided this operation is sanitary; an establishment slaughtering a person's livestock for his personal use, provided this operation is sanitary; and establishments covered under the Federal Meat Inspection Act (19 U.S.C. §1306; 21 U.S.C. §§601-623, 641-645, 661, 671-680, 691). MI 3. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.847, 217.850, 217.863]. Relates to: [K.R.S. 217.807, 217.810, 217.813, 217.847]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a, 2.2c-m.)

2.2c Official Number and Inauguration--All establishments shall maintain a sanitary condition and provide adequate facilities for maintaining inspection compliance thereof. MI 4. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.847, 217.850, 217.863]. Relates to: [K.R.S. 217.807, 217.810, 217.823, 217.850, 217.863]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a, 2.2b, 2.2d-m.)

2.2d Sanitation--An ample supply of hot water at a temperature of 180°F+ shall be supplied and used to clean equipment, floor, walls, etc. Product shall be protected from contamination at all times during production, storage, and transportation. No handling or storage of materials which create an objectionable condition in the area where product is prepared or stored is permitted. A separate watertight and rodent-proof wasteroom or building shall be provided for the handling and storing of waste materials, inedible materials, condemned products, and waste containers and covers. Operating procedures shall be in strict accordance with clean and sanitary methods. All operating and storage room and/or departments of establishments used for inedible materials shall be maintained in an acceptable clean condition. The outer premises shall be paved, drained, and kept in a clean and orderly condition. The accumulation of any materials in which flies may breed is prohibited. No nuisance is allowed. However, the Director of the Division may exempt these requirements for existing small establishments. MI 7. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823]. Relates to: [K.R.S. 217.823]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-c, 2.2e-m.)

2.2e Antemortem Inspection--When, on antemortem inspection, an animal is found to be infected with anthrax, the infected parts shall be disposed of. Exposed work areas shall be cleaned by removing and burning all the animal's manure and all straw and litter used by the animal. Condemned animals shall be disposed of in accordance with MI 13. MI 8.

Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.847, 217.850, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.807, 257.160, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-d, 2.2f-m.) Note: This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraphs 2.2.)

2.2f Postmortem Inspection--All carcasses and all parts of animals found to be affected with anthrax shall be condemned and disposed of immediately as provided in MI 12. Exception: Blood may be handled through the usual blood cooking and drying equipment. MI 9. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.847, 217.850, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.810, 257.160, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-e, 2.2g-m.) Note: MI 12 does not provide procedures for disposal; K.R.S. 263.090 does. This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraph 2.2.)

2.2g Disposal of Diseased Carcasses and Parts for Specific Conditions of this Part--Carcasses or parts of carcasses found to be affected with tuberculosis, hog cholera, swine erysipelas, diamond skin disease, arthritis, and other diseases shall be disposed of. MI 10. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.850, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.810, 257.160, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-f, 2.2h-m.)

Note: This regulation prescribes only which carcasses or parts thereof are to be condemned; it does not designate the disposal process, as title seems to indicate. K.R.S. 257.160 and 263.090 explicitly describe disposition. This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraph 2.2.)

2.2h Carcasses of Animals Slaughtered without Antemortem Inspection--If animal carcasses which have been slaughtered without antemortem inspection are found diseased and are condemned, then the carcasses shall be disposed of in accordance with MI 13. MI 11. Eff.: 26 September 1970. Auth. by: K.R.S. 217 [217.803, 217.823, 217.863, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.810, 257.160, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-g, 2.2i-m.)

Note: This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraph 2.2.)

2.2i Tanking and Denaturing Condemned Carcasses and Parts--Condemned carcasses and parts are to be heated in a sealed tank at a temperature and for a time sufficient for destroying the contents for food purposes. If crushers are used, then carcasses and parts need not be sealed. If an establishment has no tanking facility, then incineration or denaturing with carbolic acid, cresylic disinfectant, or other prescribed agent is permitted. Livers infected with flukes may be used as fish food if livers are first, denatured with FDCC # 3 or Methyl Violet; second, rinsed with water or covered with powdered charcoal; and third, frozen. MI 13. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.853, 257.160, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-h, 2.2j-m.)

Note: This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraph 2.2.)

2.2j Rendering Carcasses and Parts into Lard, Rendered Pork Fat, Tallow, and Other Cooking--Condemned carcasses and parts covered under this section shall be cooked in a sealed tank at a temperature of 170°F+ for at least 30 minutes. If an establishment has no closed equipment, then rendering in an open tank under the supervision of a Division employee is permitted. Carcasses and parts passed for cooking, but not rendered into lard, may be used for meat products provided these carcasses and parts are cooked at a temperature of 180°F for at least 30 minutes. Products passed for cooking, but not covered in this regulation, may be disposed of in accordance with MI 13. MI 14. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.850, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.850, 257.160, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-i, 2.2k-m.)

Note: This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraphs 2.2.)

2.2k Transportation--Inspected and passed product may be transported in a sanitary, sealed vehicle. The seal must bear the inspection legend. However, no unsound and unhealthy product may be transported under the regulation; each product first shall be denatured and then disposed of in accordance with MI 1-28. MI 26. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.863, 263.100]. Relates to: [K.R.S. 217.803, 217.863, 263.020, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-f, 2.21, 2.2m.)

Note: This regulation also is pursuant to K.R.S. 263.100. (See Note for paragraph 2.2.)

2.21 Inspection and Handling of Horse Meat and Products Thereof--Establishments handling horse meat product for intrastate commerce are subject to MI 1-30. MI 28. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 217.823, 217.847, 217.850, 217.863, 257.020, 257.030, 263.100]. Relates to: [K.R.S. 217.807, 217.810, 217.813, 217.847, 217.840, 217.996, 257.160, 263.020, 263.090]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a-k, 2.2m.)

Note: This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraphs 2.2.)

2.2m Penalties--Penalties for violation of MI 1-30 shall be as prescribed in sections 14, and 22-31 of the Meat Inspection Act. MI 30. Eff.: 26 September 1969. Auth. by: K.R.S. 217 [217.803, 257.020, 257.030, 263.100]. Relates to: K.R.S. 217.843, 217.870-217.893 [217.996, 257.990, 263.990]. (See also, paragraphs I 8, I 23.1d, I 36, 1.3a, 2.1, 2.2a, 2.2b.)

Note: MI 30, lines 2 and 3, read,"...shall be as prescribed in sections 14, and 22-31 of the Meat Inspection Act." Unless one is familiar with legal research, one would not know how to find this act, for neither the appropriate Ky. Act, nor K.R.S. citation is given. Assuming "14" and "22-31" to mean sections of the session law which enacted this act, it was found that "14" meant 1968 Ky. Acts c.205, §14; K.R.S. 217.843; "22-31" meant 1968 Ky. Acts c.205, §22-31; K.R.S. 217.870-217.893. Since this act was passed in 1968, and since the Statute Revisor of L.R.S. assigned K.R.S. numbers to this act long before the date this Code was adopted (21 August 1969), the K.R.S. citation could have been given. As MI 30 now stands, it is quite confusing and should be amended to reflect the K.R.S. sections. This regulation also is pursuant to K.R.S. 257.020, 257.030, and 263.100. (See Note for paragraph 2.2.)

3. Department of Fish and Wildlife Resources

3.1a No regulations relevant to solid waste disposal have been promulgated by the Department. Auth. by: [K.R.S. 150.025]. Relates to: [K.R.S. 150.160]. (See also, paragraphs I 9.1a, I 37.1a.)

4. Department of Natural Resources

4.1 Division of Forestry

4.1a No regulation relevant to dumping by or near a forest has been promulgated by the Department. Auth. by: [K.R.S. 149.395, 149.415]. Relates to: [K.R.S. 149.395, 149.370, 149.375, 149.385]. (See also, paragraphs I 11.1b, I 11.1d, I 38.1b, I 38.1d.)

4.2 Division of Water

4.2a No regulation relevant to obstruction of water promulgated by the Department is currently in force. Auth. by: [K.R.S. 151.320]. Relates to: [K.R.S. 151.310]. (See also, paragraphs I 11.2a, I 38.2a.)

Note: FC 1, "Obstruction of Streams; Issuance of Determination or Order;" FC 2, "Notice of Order or Determination; Form;" and FC 3, "Penalty for Violation of Order," all effective 27 January 1965, were issued pursuant to the authority of K.R.S. 104.400. However, these regulations are void and unenforceable because 1966 Ky. Acts c.23, §39 repealed K.R.S. 104.400. These regulations still appear in K.A.R., because the Department has never rescinded them. According to Mrs. Lena Craig, Regulations Compiler of L.R.C., it is each issuing agency's responsibility, not L.R.C.'s, to keep abreast of statute repeals and amendments, or the Statute Revisor's renumbering of K.R.S. sections which affect the issuing agency's regulations. The Department should rescind these regulations, especially since the authority for them was repealed four years ago.

REGULATIONS RELATING TO SPECIAL TYPES OF SOLID WASTE

5. Department of Health

5.1 Radioactive Solid Waste

Note: This Department is not the only state agency enabled by K.R.S. 152.120 and 152.125 to promulgate regulations on radioactive matters; however, the Department is the only state agency which has such regulations.

5.1a Waste Disposal--Covered herein, are the Department's requirements for handling radioactive wastes. The Department must approve licensee's method for disposal; the method must be described on licensee's application. Standards are given for disposal into a sanitary sewage system, burial in the soil, and for incineration. RH 5-2. Eff.: 16 October 1968. Auth. by: K.R.S. 152.120 (1a), 152.125. Relates to: K.R.S. 152.105 [152.130]. (See also, paragraphs I 48.1a, I 48.1b, 1.1, 1.5, 1.7.)

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